



महाराष्ट्र शासन राजपत्र

भाग एक-ल

वर्ष ६, अंक २५]

गुरुवार ते बुधवार, सप्टेंबर ४-१०, २०१४/भाद्र १३-१९, शके १९३६

[पृष्ठे ८८, किंमत : रुपये २३.००

प्राधिकृत प्रकाशन

(केंद्रीय) औद्योगिक विवाद अधिनियम व मुंबई औद्योगिक संबंध अधिनियम यांखालील
(भाग एक, चार-अ, चार-ब आणि चार-क यांमध्ये प्रसिद्ध केलेल्या अधिसूचना, आदेश व निवाडे यांव्यतिरिक्त)
अधिसूचना, आदेश व निवाडे.

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR

COMPLAINT (ULP) No. 322 OF 2000—(1) Shri Bapusaheb Daulatrao Powar, At Post : Waghav, Tal. Panhala, District Kolhapur.—*Complainant No. 1*; (2) Mrs. Sunita Bapusaheb Power, At Post : Waghav, Tal. Panhala, District Kolhapur.—*Complainant No. 2*—*Versus*—Maharashtra State Road Transport Corporation, Kolhapur Division, S. T. Stand, Kolhapur, through its Divisional Controller.—*Respondent*.

In the matter of Complaint u/s. 28(1) read with items 9 and 10 of Sch. IV of the M.R.T.U. & P.U.L.P. Act.

CORAM.—Shri C. A. Jadhav, Member.

Appearances.—Shri D. S. Joshi, Advocate for the Complainants.

Shri M. G. Badadare, Advocate for the Respondent.

Judgment

This is a complaint purported to be under section 28(1) read with items 9 and 10 of Sch. IV of the M.R.T.U. & P.U.L.P. Act.

2. Admittedly, Complainant No. 1 started working as a conductor from the year 1979 with the Respondent Maharashtra State Road Transport Corporation which is an undertaking of Government of Maharashtra. Complainant No. 2 is legally wedded wife of Complainant No. 1. Complainant No. 1 started suffering from illness of eyes which is medically called as "Bilate-Dry-Eye-Syndrome" which causes blindness. Complainant No. 1, therefore, realised that he will gradually become totally blind. He then requested the Corporation to appoint him on the post of peon but the Corporation rejected the same. Civil Surgeon, Kolhapur then issued a certificate on 13th January 1997 regarding in-capacity of Complainant No. 1 to work as a conductor and sent the certificate to the Corporation. The Corporation then requested the Civil Surgeon, Kolhapur by letter dated 15th January 1997 to examine the Complainant No. 1 and state in 'prescribed proform' as to whether Complainant No. 1 is fit to work as a conductor. The Civil Surgeon, on examination, found Complainant No. 1 to be completely and permanently incapacitated for further service in the Department to which he belongs in consequence of 'Bilate-Dry-Eye Syndrome' 75% blindness. The Corporation, on receipt of such certificate terminated services of the complainant from the date of certificate *i. e.* 17th January 1997, *vide* order dated 4th February 1997.

3. It is case of the Complainants that Complainant No. 1 made an application dated 17th December 1997 requesting the Corporation to appoint his wife - Complainant No. 2 on the post of a peon on compassionate grounds as per rules of the Corporation. But there was no reply or action by the Corporation. He then made similar applications dated 6th April 1998 and 13th May 1998. The Corporation then directed Complainant No. 1 by letter dated 3rd June 1998 to keep himself examined from Permanent Medical Board, at Sangli. The Board then examined Complainant No. 1 and directly sent certificate dated 10th September 1998 to the Corporation. Thereafter, both Complainants made an application dated 26th November 1998 to the Corporation to appoint Complainant No. 2 on compassionate grounds on the post of peon and submitted all documents on 9th December 1998 as per Corporation's reply dated 3rd December 1998. Even then, the Corporation rejected prayer to appoint Complainant No. 2 on the post of peon, by letter dated 11th December 1998 on a hyper technical ground that Complainant No. 2 is age barred. It is alleged by the Complainants that Corporation's refusal to make appointments on compassionate ground is contrary to its rules and breach of statutory agreement as well as settlement. They applied for relaxation of age, moreover, question of age does not arise in the cases of compassionate appointments. According to the Complainants, therefore, the Corporation has engaged in unfair labour practices under items 9 and 10 of Sch. IV of the M.R.T.U. & P.U.L.P. Act.

4. On above averments, the Complainants have prayed for declaration of unfair labour practices, direction to appoint Complainant No. 2 on the post of peon and pay wages to Complainant No. 2 of the post of peon from 17th January 1997. The Complainant also made an application (Exh. U-2) under section 30(2) of the M.R.T.U. & P.U.L.P. Act to direct the Corporation to allow Complainant No. 2 to work as a peon, pending the hearing and final disposal of main complaint.

5. The Corporation filed its say cum written statement at Exh. C-5 and traversed some of the material allegations made by the Complainant. It accepted entire factual position. It accepted that services of Complainant No. 1 were terminated with effect from 17th January 1999 on account of unfit certificate of Civil Surgeon. It contended that the application to appoint Complainant No. 2 on the post of peon on compassionate grounds could not be considered as she was found to be of over-age. As such, it has not engaged in any unfair labour practices, as alleged. Finally, the Corporation justified its action and prayed for dismissal of interim application as well as the complaint.

6. Considering rival pleadings, following issues were framed by me at Exh.O-1 :—

(i) Do the Complainants proved that the Corporation is under statutory obligation to make appointments on compassionate ground ?

(ii) Do the Complainant prove that Complainant No. 2 is entitled to be appointed on the post of a peon ?

(iii) Do the Complainants prove that the Respondent has engaged in unfair labour practices under the M.R.T.U. & P.U.L.P. Act ? If yes, under what items?

(iv) What order ?

7. My findings, on above points, are as under :—

(i) Yes.

(ii) No.

(iii) No.

(iv) The Complaint is dismissed.

Reasons

8. It is not in dispute that Complainant No. 1 was working as a conductor with the Corporation, Civil Surgeon of Kolhapur found him to be completely and permanently incapacitated for further service in the Corporation and then was terminated from service with effect from 17th January 1997. It is also not in disputes that the Complainant No. 1 applied, prior to his termination, for appointing him on the post of a peon but the Corporation rejected his proposal. Eligibility of Complainant No. 1 to be appointed on the post of peon and legality of refusal thereof is not subject matter of the complaint. Besides, none of the parties have led evidence in that behalf.

9. The Complainants have produced copies of Civil Surgeon's certificate dated 17th January 1997, termination order of Complainant No. 1, Corporation's letter dated 3rd April 1998 to permanent Medical Board, application dated 26th November 1998 for appointment on compassionate grounds and Corporation letter dated 3rd December 1998 for furnishing various documents, with list Exh. U-11. Copy of Corporation's letter dated 11th December 1998 that age of Complainant No. 2 is more than 30 years and then filing the proposal is produced by the Complainants themselves, with list Exh. U-5. Complainant No. 1 has filed his Affidavit (Exh. U-12) in lieu of examination-in-chief and is cross examined on behalf of the Corporation.

10. In rebuttal, the Corporation has produced extract of its General Standing Order No. 503, with list Exh. C-4 and various circulars regarding compassionate appointments with list Exh. C-6. No oral evidence was adduced by the Corporation.

11. Shri Joshi, learned Advocate representing the Complainants, submitted, in the beginning itself, that termination of Complainant No. 1 with retrospective effect *i. e.* from 17th January 1997 by order dated 4th February 1997 is bad in law but the Complainants are not challenging the same. He then submitted that the Corporation considered applications of the Complainants, directed Complainant No.1 to get medically examined from Medical Board so as to consider case of appointing his wife on a compassionate ground. Thereafter, the Complainant was examined by the Board and the Corporation, on receipt of Board's certificate, directed Complainant No. 2 by letter dated 3rd December 1998 to furnish various documents. Accordingly, all documents were furnished on 9th December 1998 and concerned clerk has made an endorsement under his signature on said letter. As such, the correspondence and consequential actions thereof have culminated into a contract whereby the corporation is estopped by conduct from raising plea of age. The Corporation entertained applications of the Complainant, got Complainant No. 1 medically examined from the Board and directed Complainant No. 2 to furnish various documents and undertakings. As such, it is statutory obligation of the Corporation to make appointments on Complainants grounds as the Complainants have legal right to get employment on compassionate ground.

12. Shri Badadare, learned Advocate representing the Corporation replied that there is no agreement, settlement or award between the Complainants or Union and the Corporation to make appointments on compassionate grounds, no right is bestowed upon any employee of the Corporation to get employment on compassionate ground. As such, there is no breach of any agreement, settlement or award and the complaint is liable to be dismissed on this ground itself. In support of his arguments, he relied on the decision in *Divisional Controller, MSRTC Jalgaon V/s. Rafiuddin Habib reported in 2000 (87) FLR at page 234(Bom.H.C.)*.

13. By way of rejoinder, Advocate Shri Joshi replied that legality of circular dated 16th October 1987 was in question in Rafiuddin's case (referred above) and facts therein cannot be equated with the facts of present case. He then explained that the Corporation has not come with a case that it is sole discretion of the Corporation to make appointments on compassionate grounds even though a candidate is found to be eligible for such appointment. In fact, it is usual practice of the Corporation to make appointments on compassionate grounds and many such appointments are made in the past. Eventually, doctrine of legitimate expectation which is akin to natural justice is clearly applicable in this case and it is a source of procedural as well as substantive right. He then placed reliance on the decisions of Hon'ble Apex Court in *National Building Construction Corporation V/s. S. P. Singh and others reported in 1998 (3) LLN at page 991* and *Dr.O. P. Singh V/s. State of U. P. & Ors. reported in 2003 (1) LLN at page 612*.

14. Doctrine of legitimate expectation which is akin to natural justice and promissory estoppel is clearly explained by Hon'ble Apex Court in above two decisions. It is observed that doctrine of legitimate expectation, in a given situation, can be enforced as a substantive right. It is further explained that doctrine of legitimate expectation cannot be examined according to petitioner's expectation but to be determined in the larger public interest and the same has today become a source of substantive as well as procedural rights.

15. In Rafi-Uddin's case (referred above), it is observed by his lordships that Corporation's resolution dated 19th August 1975 means that wards of the unfit employees would be considered on preferential or priority basis and hence is neither an award, nor settlement or an agreement. I am respectfully bound by the observations therein. In my humble opinion, facts of present case are different. The Corporation has entertained applications of the Complainants, processed the same and directed Complainant No. 2 to comply with certain requirements. Besides, various circulars produced by the Corporation nowhere say that it is discretion of the Corporation to make appointments on compassionate grounds. On the contrary, it is stated in circular dated 16th February 1994 that employees from all categories can apply for appointment on compassionate grounds and candidates fulfilling certain conditions will be eligible for such appointments. Besides, it is clear case of the corporation that Complainant No. 2 cannot be appointed being of over-age. As a converse Complainant No. 2 will be entitled to appointment on compassionate ground if she is of less than 30 years of age. As such, observations in Rafiuddin's case are of no help to the Corporation and the Corporation is bound by its pleading as well as action. In such circumstances, doctrine of legitimate expectation clearly comes into play. It is not disputed by the Corporation that appointments are made on compassionate grounds. Thus, it is a policy of the Corporation to make appointments of eligible candidates on compassionate grounds and, therefore, it examined case of the Complainants. As such, now the Corporation is estopped from contending that it is not bound to make appointment on compassionate grounds and various circulars of the Corporation have now become a source of procedural as well as substantive rights. Accordingly, I answer Issue No. 1 in the affirmative.

16. Corporation's General Standing Order No. 503 provides that a person for being eligible to the post of a peon must be minimum of 18 years whereas maximum of 30 years. It has come in cross-examination of Complainant No. 1 that birth date of the Complainant No. 2 is 1st June, 1959. The Corporation has given reply dated 11th December 1998 to Complainant No. 2 that her age is 39 years and 6 months, prescribed maximum age is of 30 years and hence she is not eligible to be appointed on compassionate grounds on the post of peon. Various circulars issued by Corporation's Mumbai Office regarding appointments on compassionate grounds are produced with list Exh. C-6.

17. Circular dated 16th February 1994 speaks about eligibility for being appointed on compassionate grounds in various categories and contingencies. Contingency "(D)" is in respect of drivers, who have become unfit due to weak eye-sight. Complainant No. 1 was working as a conductor. Naturally, category "(D)" is in-applicable here. Category "(C)" is regarding permanent disability on account of serious illness. It provides that one dependant of an employee who has become medically unfit due to serious illness can apply for appointment on compassionate grounds, however, it is necessary to produce certificate to that effect of competent Medical Board. It is further made clear that for such compassionate appointment Condition Nos. 2 to 11 from category "(A)" and 1 from category "(B)" will be applicable.

18. Advocate Shri Joshi argued, in the second phase, that concept of appointments on compassionate ground will have to be borne in mind while interpreting circulars of the Corporation, Corporation's conduct cum promise and plea of over-age. Admittedly, the Complainant was found unfit on account of 'Bilate Dry-eye Syndrome' having 75% blindness. Naturally, it is serious illness as contemplated under category (C). Eligible conditions thereof are Conditions Nos. 2 to 11 of Category "(A)" and 1 of Category "(B)". Condition No. 1 provides minimum service of 5 years and the same is admittedly fulfilled by Complainant No. 1. Condition No. 10 of Category "(A)" provides that maximum age limit in case of widow candidate is of 45 years. Complainant No. 2 is not a widow and, therefore, Condition No. 10 will be applicable here except to the extent of status of the candidate as a widow. Minimum and Maximum age prescribed under General Standing Order No. 503 is in applicable as the same pertains to an open candidate whereas Complainant No. 2 is a privileged candidate. As such, Complainant No. 2 is fulfilling all conditions and is entitled to appointment on compassionate ground. He further added that the Corporation solicited all documents from Complainant No. 2 and hence is now estopped from raising the after thought plea that she is of over-age. Finally, he submitted that breach of statutory obligation and the promise is an unfair labour practice.

19. Advocate Shri Badadare criticized above arguments and replied that recruitment rules cannot be over thrown while making compassionate appointments and there can be no appointments in violation of the circulars and eligibility provided therein. He then pointed out that condition No. 9 of Category “(A)” which is equally applicable to category “(C)” says that a candidate for being entitled to be appointed on compassionate ground must comply prescribed conditions like educational qualification, age, experience etc. Complainant No. 2 was found to be of over-age and hence could not be appointed on compassionate grounds. The Corporation never promised to appoint Complainant No. 2 by over-throwing eligibility criteria. It is specifically stated in clause 7 of reply dated 3rd December 1998 that Complainant No. 2 should verify about entire eligibility from Corporation’s officer. As such, the Corporation is well justified in its action and there is no unfair labour practice.

20. Circular dated 16th February 1994 is back-bone of the controversy. Various categories and contingencies are shown herein regarding appointments on compassionate grounds and eligible conditions for such appointments. Admittedly, Complainant No. 1 is found unfit on account of servious illness. As such, category “(C)” is applicable to him. Consequently, condition Nos. 2 to 11 from category “(A)” are applicable to decide eligibility of Complainant No. 2. In my judgment, condition No. 10 cannot be read in isolation by ignoring basic condition of its applicability i.e. status as a widow candidate. Condition Nos. 2 to 11 will have to be read harmoniously and with proper perspective. Maximum age of 45 years is well reasonable only for a widow candidate and the same cannot be imported for other candidates. Acceptance of arguments of Advocate Shri Joshi will be contrary to condition No. 9 and interpretation of those conditions as made by Advocate Shri Joshi, will be in violation of the aims and objects of compassionate appointment. It is observed in Raffiuddin’s. case that appointments on compassionate grounds does not mean that all the recruitment rules are to be thrown of the board. As such, I do not find any illegality or unfair labour practice on Corporation’s part while rejecting Complainant No. 2’s claim on the ground of her over-age. Her employment despite over-age will be contrary to Condition No. 9 of Category (C) of Circular dated 16th February 1994. I am cautious of economical condition of the Complainants, however, that does not mean that recruitments rules are to be totally ignored. Otherwise, the same will lead to arbitrariness and there will be no transparency in the mode of making compassionate appointments. In the circumstances, I have no alternate than to say that Complainant No. 2 is not entitled to be appointed on the post of peon on compassionate ground as she is of over-age and there is no unfair labour practice on Corporation’s part. Accordingly, I answer Point Nos. 2 and 3 in the negative.

21. To summarise, the Corporation is bound by its circulars regarding compassionate appointments. It scrutinises claim for compassionate appointment, solicited some documents from Complainant and then rejected the claim. Thus, it is bound by its conditions as well as general policy regarding appointments of compassionate grounds. The circulars speak about eligibility and other criteria. As such, doctrine of legitimate expectation and promissory estoppel comes into play and the Corporation is under obligation to make appointment on compassionate grounds. However, Complainant No. 2 is of over-age and hence the Corporation is well justified in rejecting her claim, and there is no unfair labour practice on its part. Consequently, I have no alternate than to dismiss the complaint.

22. To conclude I pass following order :—

Order

- (i) The Complaint is dismissed.
- (ii) Parties to bear their own costs.

Kolhapur,
Dated the 10th June 2003.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR

COMPLAINT (ULP) No. 110 OF 1992.—Arvind Vishnupant Jogalekar, R/o. 3168, A-Ward, Rajopadhye Lane, Kolhapur.—*Complainant—Versus—*(1) The Member (Admn./Secretary), Maharashtra State Electricity Board, Plot No. G-9, 'Prakashgad', Bandra (East), Bombay-51.—*Respondent No. 1*, (2) The Establishment Officer (IV), Maharashtra State Electricity Board, Plot No. G-9, 'Prakashgad', Bandra (East), Bombay-51.—*Respondent No. 2*, (3) The Executive Engineer, Maharashtra State Electricity Board, Rural Division No. 1, Tarabai Park, Kolhapur.—*Respondent No. 3*.

In the matter of Complaint u/s. 28(1) read with item 9 of Sch. IV of the M.R.T.U. & P.U.L.P. Act.

CORAM.—Shri C. A. Jadhav, Member.

Advocates.—Shri A. G. Pansare, Adv. for the Complainant.

Shri S. R. Rane and Shri P. R. Rane, Advocates for the Respondents.

Judgment

This is a complaint purported to be under section 28(1) read with item 9 of Sch. IV of the M.R.T.U. & P.U.L.P. Act.

2. Admittedly, the Complainant started working under the Maharashtra Electricity Board (hereinafter called as the Board) as a tracer. His educational qualification is 'Government Diploma in Arts, D. T. S.' The Board published General Order No. 74 on 30th April 1974, dealing with the subject of promotion to higher post in respect of employees who have remained in a given post for 10 years or more on May, 1974. As per said order, the Board decided to extend special benefits to such an employee who remain on a given post for the 10 years or more, without advantage of higher post or higher grade for want of clear vacancies. Such benefit is to be extended irrespective of the fact whether suitable vacancies in the next higher post, are available or not. The Board then modified General Order No. 74 *vide* correction slip No. 9, dated 6th May 1983 where by condition of serving for 10 years came to be reduced to 6 years with effect from 1st April 1980. The Board further modified correction slip No. 9 by Resolution No. 1210 dated 6th November 1984 whereby, benefit of higher post or grade was made available twice instead of once.

3. It is also an admitted position that next promotional post to the post of Tracer is of Jr. Draftsman and then of Sr. Draftsman and the Complainant was granted pay scale of the post of Sr. Draftsman with effect from 1st April 1980, *vide* Board's order, dated 5th October 1984.

4. It is case of the Complainant that qualification for the post of Sr. Draftsman is Diploma in Draftsmanship of the State Council of Technical Education of Maharashtra State or a Certificate in Mechanical Draftsmanship from National Council for Training in Vocational Trades or its equivalent and experience of not less than 3 years in a drawing office connected preferably with electrical power plant and sub-stations, layouts drawing, wiring diagrams details of plants and structures, maps etc. and he must be able check the design calculatings and prepare drawings. It is alleged by the Complainant that he fulfilled necessary requirements of qualification and experience required for the post of Sr. Draftsman as prescribed under Board's Employees Classification and Recruitment Regulations 1961 and, therefore, was granted scale of the post of Sr. Draftsman, as per directions in General Order No. 74. It is further alleged by the Complainant that educational qualification for the post of Chief Draftsman is same like for the post of Sr. Draftsman, however, experience must be of not less than 8 years. He fulfills educational qualification for the post of Chief Draftsman and has experience of 9 years in the post of Jr. Draftsman. The Board issued circular/clarification, dated 4th May 1979 whereby it was made clear that non-qualified employees should be extended benefits of General Order No. 74, if non-qualified employees fulfills condition of euivalent experience equated with qualification. According to the Complainant, therefore, he is qualified as well as has experience of 9 years equating with qualification prescribed for the post of Chief Draftsman and, therefore, is entitled to second General Order No. 74 benefits on completion of 9 years *i. e.* with effect from 1st April 1989.

5. It is further case of the Complainant that he submitted an option to the Board alongwith requisite undertaking on 8th May 1990 with a request to pay scale of Chief Draftsman as second benefit under General Order No. 74, with effect from 1st April 1989. However, the Board informed him by letter, dated 27th December 1991 that he was found unfit for second benefit with effect from 1st April 1989 and his case will be considered again for grant of second benefit with effect from 1st April 1990. He made representation, dated 7th February 1992 to extend second benefit with effect from 1st April 1989. But the same was refused. It is alleged by the Complainant that no adverse remarks are communicated to him nor a disciplinary action is taken against him. He fulfills both conditions of qualification and experience and is legally entitled to second benefit. But the same is arbitrarily and illegally refused. In fact, he was granted first benefits of the post of Sr. Draftsman as was found to be having eligible qualification and experience. According to him, therefore, refusal to grant second benefit is an unfair labour practice under item 9 of Sch. IV of the M.R.T.U. & P.U.L.P. Act.

6. On above averments, the Complainant has prayed for declaration of an unfair labour practice, direction to pay second benefit with effect from 1st April 1989 and other consequential reliefs.

7. Status of Respondents 1 to 3 is not in dispute. The Complainant was working on the post of Jr. Draftsman under Respondent No. 3 when filed the complaint.

8. Respondent No. 3 filed written statement at Exh. C-3 for himself as well as on behalf of Respondent Nos. 1 and 2 and traversed all material allegations made by the Complainant. He contended, at the outset, that benefit under General Order No. 74 is not automatic and one has to fulfill prescribed qualification and experience. Besides, ability and performance of each employee is required to be considered while conferring first and second benefit under General Order No. 74. In addition, the Board has power and authority to relax qualification while giving actual promotion and/or the benefits to deserving employees. The Complainant does not possess requisite qualification for the post of Jr. Draftsman as well as Sr. Draftsman, however, the same was relaxed while promoting him on the post of Jr. Draftsman as well as granting first benefit of the scale of post of Sr. Draftsman.

9. It is case of the Respondents that the Complainant cannot claim further relaxation of condition of qualification for benefit of next higher grade of the post of Chief Draftsman, particularly because experience has not been equated in respect of non-qualified candidates in the pre-requisite prescribed for the post of draftsman. In fact, competent Selection Committee took interviews of all candidates and found the Complainant unfit for second benefit. Later on, his case was again submitted to the Scrutiny Committee for deciding his suitability for granting second benefit with effect from 1st April 1990. The Complainant has no requisite qualification for being promoted on the post of Chief Draftsman. In addition, the Complainant is misinterpreting Board's circular dated 4th May 1979 as the same is applicable for the categories of Junior and senior draftsman and not to the category of Chief Draftsman. Likewise, the complaint is barred by limitation. Complainant's representation was suitably replied by letter, dated 24th September 1992. Finally, Respondents 1 to 3 justified Board's action and prayed for dismissal of the complaint.

10. Considering rival pleadings, following issues were framed by me at Exh. O-1 :—

(i) Does the Complainant prove that he was legally entitled to have "G.O.-74" benefit secondly with effect from 1st April 1989 ?

(ii) Does the Complainant prove that Board's refusal to pay such benefit is arbitrary and without application of mind ?

(iii) Does the Complainant prove that the Board has engaged in an unfair labour practice under item 9 of Sch. IV of the M.R.T.U. & P.U.L.P. Act ?

(iv) What order ?

11. My findings, on above points, are as under :—

- (i) No.
- (ii) No.
- (iii) No.
- (iv) The Complaint is dismissed.

Reasons

12. I must state at the threshold itself that the Board granted second benefit to the Complainant with effect from 1st April 1990, *vide* order, dated 1st February 1993. Copy thereof is produced on record with list Exh. C-5. As such, the controversy is restricted only to the extent of entitlement of second benefit for the period 1st April 1989 to 31st March 1990.

13. The Complainant has produced Board's letter dated 27th December 1991 and correction letter, dated 22nd January 1992, whereby he was communicated that Competent Selection Committee found him unfit for second benefit with effect from 1st April 1989. These two letters are not disputed by either parties. The Complainant has then produced copy of his representation, dated 7th February 1992 and order, dated 30th October 1984 granting first benefit to him with effect from 1st April 1980. None of the parties led oral evidence and accordingly filed pursis on record.

14. Shri Pansare, learned Advocate representing the Complainant vehemently argued that Board's action is contrary to the object and scheme of General Order No. 74. In fact, the same was issued to overcome non-promotions for want of clear vacancies. Besides, letter dated 27th December 1991 is a simple communication that the Complainant was found unfit. It was obligatory for the Board to disclose as to how the Complainant was found to be unfit. In fact, there are no adverse remarks in confidential report of the Complainant nor he is subjected to disciplinary action, at any time. As such, refusal to grant second benefit is clearly an unfair labour practice.

15. Shri S. R. Rane, learned Advocate representing the Respondents replied that the Complainant has nowhere established that his educational qualification is equivalent to the prescribed qualification. As such, the Complainant cannot claim second benefit as of right.

16. It is own case of the Complainant his educational qualification is "Government Diploma in Arts, D. T. S.". The Complainant himself has stated required educational and experience for the posts of Sr. Draftsman and Chief Draftsman in his complaint itself. As such, he is bound to his pleadings. Advocate Shri Pansare, was unable to satisfy as to how educational qualification of the Complainant is equivalent to the prescribed qualifications. In such circumstances, it has to be accepted that the Complainant does not possess requisite qualification for the post of Sr. and Chief Draftsman and those were relaxed while promoting him on the post of Junior Draftsman and granted first benefit of the scale of post of Senior Draftsman.

17. Advocate Shri Rane further argued that the Complainant has come with a case of automatic entitlement to the second benefit of General Order No. 74 on completion of 9 years. However, such is not the scope and ambit of General Order No. 74. The employees who are granted such benefits have to give an undertaking that they will not refuse physical promotion involving transfer as and when higher post becomes vacant. The Board started constituting a Competent Selection Committee to bring more transparency and to remove impression of bias. The Committee does not consist of Boards Officer but of other competent persons. Element of objectivity came to be introduced and otherwise fitness for promotion is mandatory. Past confidential reports of 3 years are perused by the Committee and then a decision is taken. The Complainant was found unfit for the second benefits. The Complainant was found fit for the next year and was granted second benefit with effect from 1st April 1990. It is not case of the Complainant that his confidential reports are excellent but, even then, is not given benefit. He then clarified that scope of judicial review for the post of promotion is limited and the Courts have no jurisdiction to enter into assessment of reports by the Competent Selection Committee. In support of his arguments, he relied on the decisions in *M. S. E. Board V/s. Dinkar S. Sane reported in 1993 I-CLR-at page 865 (Bom. N.C.)*. He further relied upon two decisions of Hon'ble Apex Court in *State of M.P. V/s. Shrikant Chaphekar reported in 1999 II-LLJ at page 662* and *Amrik Singh V/s. Union of India reported in 2002 Lab. I. C. at page 2192*.

18. Decision in M. S. E. Board V/s. Dinkar Sane (referred above) is in respect of interpretation of General Order No. 74. It is held that entitlement to benefit of General Order No. 74 is not automatic. In the present case, the Complainant does not possess requisite educational qualification for being promoted on the post of Chief Draftsman. It cannot be ignored that post of Chief Draftsman has more responsibility and accountability. As such, otherwise fitness for being promoted on such post is must. It is clearly observed in Dinkar Sane's case as under :—

“In case the employee is guilty of any charge or the Confidential Reports of such employee indicates that he is misfit for the promotion or the employee has not passed necessary examination, then in such case, the employee cannot demand higher grade as of a matter of right.”

19. In such circumstances, I hold that benefit under General Order No. 74 is not automatic and cannot be claimed as of right. Hon'ble Apex Court in Amrik Singh V/s. Union of India (referred above) has made crystal clear that judicial review is permissible only to the extent of finding whether process is reaching decision has been observed correctly and not the decision as such. Admittedly, Complainant's case was scrutinised by Competent Selection Committee and was found to be unfit. His unfitness is his general assessment and cannot be said to be an adverse remark which requires to be communicated to him. Besides, it is not case of the Complainant that his confidential reports are excellent. His main contention is entitlement to second benefit on completion of 9 years *i. e.* automatic one. His such plea is clearly answered by their Lordships of Bombay High Court in Dinkar Sane's case (referred above). In my humble opinion, therefore, it is not necessary to repeat those observations in this judgment. Suffice to say that this decision of Bombay High Court clearly non-suits the Complainant. Even otherwise, decision of Competent Selection Committee cannot be a matter of judicial review as held in Amrik Singh's case (referred above). The Committee has scrutinised Complainant's case and found him to be unfit.

20. In the background of above discussions, I hold that the Complainant was not legally entitled to second benefit and Board's refusal to give such benefit is well justifiable. Accordingly, I answer issue Nos. 1 and 2 in the negative and pass following order.

Order

(i) The Complaint is dismissed.

(ii) Parties to bear their own costs.

Kolhapur,
Dated the 19th June 2003.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA, AT KOLHAPUR

COMPLAINT (ULP) No. 68 OF 2001.—Shri Vijay Vishvnath Paranjape, R/o. New Sabnis Wada, Sawantwadi, Sindhudurg.—*Complainant*.—*Versus*—Divisional Controller, Maharashtra State Road Transport Corporation, Sindhudurga Division, Kankavali, Sindhudurg.—*Respondent*.

In the matter of Complaint u/s. 28(1) read with items 9 and 10 of the Sch. IV of the M.R.T.U. and P.U.L.P Act, 1971.

CORAM.—Shri C. A. Jadhav, Member.

Appearances.—Shri A. G. Panasre, Advocates for the Complainant.

Shri M. G. Badadare, Advocate for the Respondent.

Judgment

This is a complaint under section 28(1) read with items 9 and 10 of Sch. IV of the M.R.T.U. and P.U.L.P. Act, 1971.

2. Admittedly, the Complainant was in employment of the Respondent Maharashtra State Road Transport Corporation as a conductor. He was served with chargesheet dated 8th March 1992 under various clauses of Discipline and Appeal Procedure of the Corporation mainly alleging dis-honesty and misappropriation of Rs. 6,614. Then an enquiry took place and ultimately, he was dismissed from service on 29th June 1992. He was also prosecuted *vide* Regular Criminal Case No.5/97, in the Court of Chief Judicial Magistrate, Sindhudurg at Oras, wherein he was acquitted of the charge of offences punishable under section 406, 467, 468 and 471 of the Indian Penal Code on 28th June 1997.

3. It is also an admitted position that the Complainant filed complaint (ULP) No.273/92 before Labour Court, Kolhapur against the Corporation alleging unfair labour practices under item 1 of Sch. IV of the M.R.T.U. & P.U.L.P. Act. The Corporation contested the complaint. Learned Labour Court, after hearing both parties, held that findings of the Enquiry Officer are perverse and liable to be set aside. Finally, it allowed the complaint on 3rd April 2000 directing reinstatement with continuity of service but without back wages. Consequent upon such order, the Corporation reinstated the Complainant from 27th June 2000. As such, the Complainant is in employment from such date.

4. It is case of the Complainant that the Corporation, while reinstating him, fixed his basic wages which were payable to him in the year 1992 *i. e.* at the time of dismissal. In fact, other employees who are made permanent alongwith the Complainant in the year 1973 are getting basic pay of Rs. 5080 whereas, he is paid basic wages of Rs. 4360 only. It is alleged that the Complainant is entitled to receive basic wages as paid to other employees as the Labour Court has granted “continuity of service” to him. He made an application dated 19th December, 2000 to the Corporation for fixing his basic wages alongwith “continuity of service” but the Corporation has illegally given reply dated 2nd January 2001 that he is not entitled to any benefits. It is alleged that Corporation’s such Act is an unfair labour practice under item 9 and 10 of Sch. IV of the M.R.T.U. and P.U.L.P. Act.

5. On above averments, the Complainant has prayed for requisite declaration of unfair labour practices, direction to the Corporation to pay basic wages to him as paid to other permanent employees and other consequential reliefs.

6. The Corporation filed its written statement at Exh. C-3 and traversed some of the material allegations made by the Complainant. It pleaded, at the outset, that alleged cause of action is not continuous one and hence the complaint is barred by limitation. It is case of the Corporation that basic wages of the Complainant are fixed properly and there is no unfair labour practice. In the alternate, it is contended that the Corporation be given an opportunity to lead evidence to justify its action. Finally, the Corporation prayed for dismissal of the complaint.

7. Considering rival pleadings, following issues were framed by me at Exh.O-1 :—

(i) Does the Complainant prove that he is entitled to annual increments for the period from his dismissal till reinstatement as per decision of Labour Court in complaint (ULP) No. 272 of 1992 ?

(ii) Does the Complainant prove that the Respondent has failed to properly implement decision of the Labour Court ?

(iii) Does the Complainant prove that the Respondent has engaged in an unfair labour practice under items 9 of Sch. IV of the M.R.T.U. and P.U.L.P. Act?

(iv) What order ?

8. My findings, on above issues, are as under :—

(i) Yes.

(ii) Yes.

(iii) Yes.

(iv) The complaint is allowed.

Reasons

9. I must clarified at this stage itself that the Complainant has filed Revision Application (ULP) No. 54/2000 in this Court challenging decision in complaint (ULP) No. 273 of 1992 to the extent of refusal of back wages. The Corporation has not filed Revision Application against said decision.

10. The Complainant has produced copy of Corporation's order dated 16th November 2000 where by his basic pay is fixed at Rs. 4,360 and Corporation's reply dated 2nd January 2001 that he is not entitled to any benefits except continuity of service, with list Exh. U-6. None of the parties have led oral evidence.

11. Shri Pansare, the learned Advocate representing the Complainant vehemently argued that the Corporation has totally violated directions in complaint (ULP) No. 273/92 and it amounts to contempt of Court. In fact, "continuity of service" contemplates revision of pay scale as well as yearly increments. Otherwise, the term "continuity of service" has no meaning at all. As such, the Complainant was legally entitled to all yearly increments and other benefits as if he was in employment and his basic wages must be fixed accordingly. But the Corporation has conveniently interpreted Labour Court's order and illegally refused to revise basic pay of the Complainant. It is clearly an unfair Labour practice.

12. Shri Badadare, learned Advocate representing the Corporation replied that Labour Court has nowhere directed to pay consequential benefits arising out of "continuity of service" and hence Corporation's action is legal and proper.

13. Concept of calculation of back wages in case of reinstated workman is made clear in *Goa Bottling Co. Ltd. V/s. Pradeep Sardesai and another reported in 1992 II-CLR at page 490*. Decision of Hon'ble Apex Court in *Gamon India Ltd. V/s. Niranjan Dass reported in 1984 (48) FLR at page 310*, is relied therein. It is held that benefit of revised wages or salary arising out of a revision of pay scale as also yearly increments and revised dearness allowance are also revised dearness allowance are also entered the calculation of back wages. In the present case, findings of the Enquiry Officer are held perverse and then the Corporation in directed to reinstate the Complainant. Consequently, it cannot be accepted that grant of previous increments will be additional benefit to the Complainant. The very finding of holding and declaring that the Corporation has engaged in an unfair labour practice clearly implies that the Complainant is entitled to all consequential benefits of continuity of service. Otherwise, interpretation of Labour Court's order as made by the Corporation will be contrary to the spirit of directions given by the Labour Court. I, therefore, hold that the Complainant is entitled to annual increments for the intervening period and the Corporation has failed to properly implement decision of Labour Court by engaging in an unfair labour practice under item 9 of Sch. IV of the M.R.T.U. and P.U.L.P. Act. Accordingly, I answer issue Nos. 1 to 3 in the affirmative. However, considering peculiar facts and circumstances of this case, it is not necessary to give declaration of the unfair labour practice and an affirmative finding thereof only will suffice.

14. Finally, I pass following order.

Order

(i) The complaint is allowed.

(ii) The Respondent is directed to fix basic wages of the Complainant as if he was in continue service and earned increments, within one month from to-day.

(iii) Parties to bear their own costs.

Kolhapur,

Dated the 19th June 2003.

C. A. JADHAV,

Member,

Industrial Court, Kolhapur.

(Sd./-)

Assistant Registrar,

Industrial Court, Kolhapur.

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA, AT KOLHAPUR

COMPLAINT (ULP) No. 430 OF 1996.—Manikkumar Bhalchandra Tone, R/o. R. S. No. 260/2, Plot No. 3, E-Ward, Near Castle Bungalow, Dr. Hindurao Ghatge Colony, Kolhapur.—*Complainant*.—*Versus*—Maharashtra State Electricity Bombay, through :— (1) The Member (Adm)/Secretary, M. S. E. Board, Bombay.—*Respondent No. 1*,—(2) The Dy. Establishment Officer-(II-A), M. S. E. Board, Bombay.—*Respondent No. 2*;—(3) The Executive Engineer, Maharashtra State Electricity Board, Urban Division, Tarabai Park, Kolhapur.—*Respondent No. 3*.

In the matter of complaint u/s. 28(1) read with item 9 of Sch. IV of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM.—Shri C. A. Jadhav, Member.

Appearances.—Shri A. G. Pansare, Advocate for the Complainant.

Shri S. R. Rane and Shri P. R. Rane, Advocates for the Respondents.

Judgment

This is a complaint purported to be under section 28(1) read with items 9 of Sch. IV of the M.R.T.U. and P.U.L.P. Act.

2. Admittedly, the Complainant started working under the Maharashtra State Electricity Board on the post of Lower Division Clerk from 13th January 1959. He was then promoted to the post of Upper Division Clerk (Accounts) in the year 1971 and then to the post of Assistant Accountant in the then existing grade, on 10th February 1978. The Board published General Order No. 74 on 30th April 1974, dealing with the subject of promotion to higher post in respect of employees who have remained in a given post for 10 years or more on May, 1974. As per said order, the Board decided to extend special benefits to such an employee who remained on a given post for the 10 years or more, without advantage of higher post, or higher grade for want of clear vacancies, such benefit is to be extended irrespective of the fact whether suitable vacancies in the next higher post, are available or not. The Board then modified General Order No. 74 *vide* correction slip No. 9 dated 6th May 1983 whereby condition of serving for 10 years came to be reduced to 6 years with effect from 1st April 1980. The Board further modified correction slip No. 9 by Resolution No. 1210 dated 6th November 1984 whereby, benefit of higher post or grade was made available twice instead of once.

3. It is case of the Complainant that he was exempted from passing departmental higher (Accounts) examination with effect from 26th October 1983, *vide* order dated 9th April 1994, as had experience of 5 years in the post of Assistant Accountant. It is then contended that qualification for the higher post *i. e.* Divisional Accountant is degree of a recognised University preferably in Commerce, Economics or Mathematics etc. and experience in Audit and Accounts for a period of 5 years in a commercial organisation of Government etc. It is alleged that the Complainant has experience of 13 years on the post of Assistant Accountant, exempted from passing the departmental higher (Accounts) examination. completed 6 years continuous service on the post of Upper Divisional Clerk on 10th February 1984 and, therefore, was entitled to benefit of General Order No. 74. Accordingly, he applied with the Board on 9th April 1984 for granting such benefit with effect from 10th February 1984. However, the Board informed him by letter dated 17th June 1987 that he was found unfit by the Committee for getting General Order No. 74 benefit from 10th February 1984. It is alleged that his past service record is good, there are no adverse remarks and one disciplinary action against him while working as Lower Divisional Clerk is inconsequential. The benefit is refused illegally and arbitrarily. It is then submitted that such benefit is granted with effect from 1st April 1989. According to the Complainant, therefore, refusal to grant benefit from 10th February 1984 to 1st April 1989 is an unfair labour practice under item 9 of Sch. IV of the M.R.T.U. and P.U.L.P. Act. It is further contended that Bombay High Court delivered a decision on 10th January 1991 in *Dinkar Sadashiv Sane V/s. Maharashtra State Electricity Board (now reported is 1991 I-CLR at page 409)*. and this complaint is filed thereafter. As such, delay in filing the complaint be condoned.

4. On above averments, the Complainant has prayed for declaration of an unfair labour practice direction to pay the benefit with effect from 10th February, 1984 and other consequential reliefs.

5. Status of Respondents 1 to 3 is not disputed. The Complainant has now retired on 31st October 1996.

6. Respondent No. 3 filed written statement at Exh. C-2 for himself as well as on behalf of Respondents 1 and 2 and traversed all material allegations made by the Complainant. It is contended that benefit under General Order No. 74 is not automatic and one has to fulfill prescribed educational qualification. Besides, ability and performance of each employee is required to be considered while conferring first and second benefit under General Order No. 74. The Complainant has passed S. S. C. Examination only and has no requisite educational qualification for being promoted on the post of Divisional Accountant. In fact, post of Divisional Accountant carries more responsibility and otherwise fitness for promotion is must for granting the benefit. The Complainant was never exempted from passing departmental higher (Accounts) Examination. Besides, he faced disciplinary action while working as Lower Divisional Clerk. Complainant Confidential Reports were far from satisfactory and not upto the standard for promoting on the post of Divisional Accountant and hence was not granted the benefit. Later on, he was found fit and then granted the benefits with effect from 1st April, 1989. Finally, Respondents 1 to 3 justified Board's action and prayed for dismissal of the complaint.

7. Considering rival pleadings, following issues were framed by me :—

(i) Does the Complainant prove that he was legally entitled to have 'G.O.-74' benefit with effect from 10th February 1984 ?

(ii) Does the Complainant prove that Board's refusal to pay such benefit is arbitrary and without application of mind ?

(iii) Does the Complainant prove that the Board has engaged in an unfair labour practice under item 9 of Sch. IV of the M. R. T. U. and P. U. L. P. Act ?

(iv) What order ?

8. My findings, on above issues are as under :—

(i) No.

(ii) No.

(iii) No.

(iv) The complaint is dismissed.

Reasons

9. The Complainant produced copies of Board's letter dated 9th April 1984 exempting him from passing Departmental Higher (Accounts) Exemption, refusal letter dated 17th June 1987 and later order granting benefit with effect from 1st April 1989. He then filed an affidavit (Exh. U-4) in terms of averments made in the complaint. The Respondents did not lead documentary or oral evidence.

10. Shri Pansare, learned Advocate representing the Complainant argued that refusal letter is a simple communication but does not contain reasons thereof and the refusal is contrary to the object and scheme of General Order No. 74. In fact, the order was issued to over-come non-promotion for want of clear vacancies. There are no adverse remarks in Confidential Reports of the Complainant as nothing was communicated to him. The Complainant had requisite experience required for the post of Divisional Accountant and, therefore, granted the benefit from 1st April 1989. As such, proposed plea of not having requisite educational qualifications is false. In support of his arguments, he relied on decision of *Dinkar Sadashiv Sane V/s. Maharashtra State Electricity Board reported in 1991-I-CLR-at page 401.*

11. Shri Rane, learned Advocate representing the Respondents replied that observations in Sane's case are set-aside by Division Bench and decision thereof if reported in 1993 I-CLR at page 865 (*Maharashtra State Electricity Board V/s. Dinkar Sadashiv Sane*), wherein it is held that the benefit cannot be automatic and such is not the scope and ambit of General Order No. 74. The Board started constituting a Competent Selection Committee to bring more transparency and to remove impression of bias. The Committee does not consist of Board's Officer but of other competent persons. Element of objectivity came to be introduced and otherwise fitness for promotion is mandatory. Past confidential reports of 3 years are perused by the Committees and then a decision is taken. The Complainant was found unfit. The Complainant was found fit and was granted benefit from 1st April 1989. He then clarified that scope of judicial review in the matters of promotion is limited and the Courts have no jurisdiction to enter into assessment of reports by the Competent Selection Committee. He placed reliance on decision of Hon'ble Apex Court in *State of Madhya Pradesh V/s. Shrikant Chaphekar reported in 1993 II-LLJ at page 662*.

12. Decision in *M. S. E. B. V/s. Dinkar Sane* (referred above) is in respect of interpretation of General Order No. 74. It is held that entitlement to benefit of General Order No. 74 is not automatic. In the present case, the Complainant does not possess requisite educational qualification for being promoted on the post of Divisional Accountant. It cannot be ignored that post of Divisional Accountant has more responsibility and accountability. As such, otherwise, fitness for being promoted on such post is must. It is clearly observed in *Dinkar Sane's case* as under :—

“In case the employee is guilty of any charge or the Confidential Reports of such employee indicates that he is misfit for the promotion or the employee has not passed necessary examination, then in such case, the employee cannot demand higher grade as a matter of right”.

13. In the light of above observations, I hold that benefit under General Order No. 74 is not automatic and cannot be claimed as of right. Admittedly, Complainant's case was scrutinised by the Committee and he was found unfit. His unfitness is his general assessment and cannot be said to be an adverse remarks/which required to be communicated to him. Besides, it is not case of the Complainant that his Confidential Reports are excellent. His main contention is automatic entitlement to the benefit. His such plea is clearly answered by Division Bench of Bombay High Court in *Dinkar Sadashiv Sane's case* (referred above). In my judgment, it is not necessary to repeat observations therein. Suffice to say that said decision of Division Bench non-suits the Complainant. Even otherwise, decision of Competent Selection Committee cannot be a matter of judicial review. The Committee has scrutinised Complainant's case and found him to be unfit.

14. In the background of above discussions, I hold that the Complainant was not entitled to the benefit, as of right, with effect from 10th February 1984 and Board's refusal is well justifiable. Accordingly, I answer issue Nos. 1 to 3 in the negative and pass following order.

Order

- (i) The complaint is dismissed.
- (ii) Parties to bear their own costs.

Kolhapur,
Dated the 5th July 2003.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA, AT KOLHAPUR

COMPLAINT (ULP) No.252 OF 2002.—Bharama Kallappa Malgave, R/o. Umalwad, Tal. Shirol, District Kolhapur.—*Complainant*.—*Versus*—(1) Kolhapur Zilha Shetkari Vinkari Sahakari Soot Girani Ltd, Rajeev Gandhi Nagar, Ichalkaranji., through its Chairman and Board of Directors.—*Respondent No. 1*; (2) The Managing Director, Kolhapur Zilha Shetkari Vinkari Sahakari Soot Girani Ltd, Ichalkaranji.—*Respondent No. 2*; (3) The Regional Provident Fund Commissioner, Sub-Regional Office, Bhavishya Nidhi Bhavan, Tarabai Park, Kolhapur.—*Respondent No. 3*;—(4) The Directors of Handlooms, Powerlooms & Textiles and Addl. Registrar, Co-op. Society, Nagpur.—*Respondent No. 4*;—(5) The General Manager, Industrial Development Bank of India, Nariman Point, 11th Floor, Earnest House, Mumbai.—*Respondent No. 4*.

(Name of Respondent Nos. 3 to 5 were deleted on the date of presentation of the complaint).

In the matter of complaint u/s. 28(1) read with items 9 and 10 of Sch. IV of M. R. T. U. and P. U. L. P. Act, 1971.

CORAM.—Shri C. A. Jadhav, Member.

Appearances.—Shri S. V. Suryawanshi, Advocate for the Complainant.

Shri A. D. Patil, Advocate for the Respondents 1 and 2.

Judgment

This is a complaint by an employee alleging unfair labour practice under section 28(1) read with items 9 and 10 of Sch. IV of the M. R. T. U. and P. U. L. P. Act, 1971.

2. Admittedly, Respondent No. 1 is a Co-operative Society (hereinafter referred to as the Spinning Mill) registered under the Maharashtra Co-operative societies Act and is engaged in manufacturing cotton yarn. It is registered under the Factories and the employees about 3,000 employees. It is also an “undertaking” under the BIR Act. Respondent No. 2 is Managing Director of the Spinning Mill and thus manages all affairs of the Spinning Mill.

3. It is also an admitted position that the Complainant is in employment of the Spinning Mill on the post of Godown Keeper. It has also come on the record that Soot Girani Kamgar Sanghatana, which is registered under the Trade Unions Act, filed complaint (ULP) No. 73 of 2002 in this Court against the Spinning Mill alleging unfair labour practices under items 9 and 10 of Sch. IV of the M.R.T.U. and P.U.L.P. Act on the ground that the Spinning Mill has not paid wages on or before 10th day of every following month, it is an illegal change and thereby an unfair labour practice. Said Union also made an interim Application (Exh. U-2) which came to be allowed on 16th April 2002 directing the Spinning Mill to deposit due wages payable to all workmen/employees till February, 2002, in this Court, on or before 30th April 2002.

4. It is case of the Complainant that there is express and implied term of contract of employment to pay wages to him after every month or before 10th day of every following month and such practice was in vogue from July, 1995. However, the Salary is not paid within stipulated time. He is not paid salary from October, 2001 to February, 2002 and then from May, 2002 onwards. In addition, the Spinning Mill deducted some amount from his monthly wages during January, 1997 to December, 1997 amounting to Rs. 1,225 and kept said amount in ‘Suspense Account’. Besides, his annual increments for the years 2001 and 2002 are not paid. He is also not paid the bonus/*ex-gratia* of Rs. 4,806.60 for the year 1999-2000, although payment thereof is made to other employees in November, 2001. It is further alleged that the Spinning Mill has not paid its contribution of Provident Fund and the same will adversely affect his pension benefits. In addition, the Spinning Mill has not complied interim order passed in complaint (ULP) No. 73 of 2002.

5. It is further case of the Complainant that he is not allowed to resume duties and is likely to be terminated illegally. The Spinning Mills’ plea regarding non-availability of funds is unsustainable in law. According to the Complainant, therefore, failure to pay his salary within time is unfair labour practice.

6. On above averments, the Complainant has prayed for declaration of requisite unfair labour practice direction to deposit his wages as per interim order passed in complaint (ULP) No.73 of 2002, further direction to pay his salary regularly and other consequential reliefs.

7. The Complainant annexed statement of his Provident Fund dues to the complaint as well as has stated particulars of his due salary as on date of presentation of the complaint which amounts to Rs. 45,939.65. It also needs to be stated that the Complainant arrayed Regional Provident Fund Commissioner, Director of Handlooms, Powerlooms and Textile and General Manager of Industrial Development Bank of India as Respondents 3 to 5 but then did not press his allegations against them. As such, notices were issued to Respondents 1 and 2 only.

8. Respondents 1 and 2 filed their written statement at Exh. C-3 contending, at the outset, that Soot Girani Kamgar Sanghatana has discussions from time to time with them and has accepted difficulties of the Spinning Mill. As such, said Sanghatana is a necessary party and the complaint is liable to be dismissed on account of non-joinder of necessary party. Besides, present complaint is barred under section 59 of the M. R. T. U. & P. U. L. P. Act as complaint (ULP) No. 73 of 2002 filed by the Sanghatana is pending.

9. It is case of the Spinning Mill that price of raw-material increased by 100% in the year 1995 but rates of cotton yarn increased by 25% only. As such, it has suffered heavy losses and was unable to pay wages, engery bills as well as contributions of Provident Fund and Employees State Insurance Scheme, National Development Corporation and N. C. D. C. have sanctioned financial assistance of Rs. 13.5 crores and amount thereof is awaited. Thereafter, it will be possible to pay wages and other contributions. In addition, a proposal seeking permission of the Government to sale land of 71 acres is awaiting sanction. On sale of the land, the Mill will get consideration of Rs. 16 crores and then there will be no difficulty to clear entire dues.

10. It is further contended by the Spinning Mill that its relations with the Sanghatana are cordial and wages are paid to employees from time to time as per availability of funds. Thus, there is transperency in payment of wages and non-payment of wages is neither intentional nor deliberate. Besides, it is unable to get production of 3000/4000 kg yarns per day due to go slow by its workmen and, therefore, it sufferened heavy losses. As such, the Complainant is not entitled to wages. Besides, wages of the Complainant cannot be calculated as there is cessation of work and it will file additional say at the appropriate stage, in that behalf. It is then made clear that the Spinning Mill does not intend or wish to terminate services of any of its employees including the Complainant and hence Complainant's apprehension of termination is baseless. Finally, the Respondents prayed for dismissal of the complaint.

11. Considering rival pleadings, following points arise for my determination :—

(i) Whether the Complainant has locus standi to file this complaint in view of pendency of complaint (ULP) No. 73 of 2002 filed by the Soot Girani Kamgar Sanghatana ?

(ii) Whether the complaint is hit by provisions under section 59 of the M.R.T.U. & P.U.L.P. Act ?

(iii) Does the Complainant prove that Respondents 1 and 2 are under statutory obligation to pay his wages on or 10th day of every following month ?

(iv) Does he further prove that Respondents 1 and 2 have not paid his wages from October, 2001 to February, 2002 and May, 2002 onwards ?

(v) Does he further prove that Respondents 1 and 2 are under statutory obligation to pay Provident Fund and Employees State Insurance Scheme contribution, within stipulated time ?

(vi) Does he further prove that Respondents 1 and 2 have failed to pay his wages as well as pay contrbution of Provident Fund and Employees State Insurance Scheme ?

(vii) Does he further prove that Respondents 1 and 2 engaged in unfair labour practice under item 9 of Sch. IV of the M.R.T.U. & P.U.L.P. Act ?

(viii) What Order ?

12. My findings, on above points, are as under :—

- (i) Yes.
- (ii) No.
- (iii) Yes.
- (iv) Yes.
- (v) Yes.
- (vi) Yes.
- (vii) Yes.
- (viii) The complaint is allowed.

Reasons

13. The Complainant has produced copy of interim order passed in complaint (ULP) No. 73/2002, whereby the Spinning Mill is directed to deposit wages due till February, 2002, in this Court, with list Exh. U-6. The Spinning Mill also made an application (Exh. C-12) in complaint (ULP) No. 73/2002 seeking permission of this Court to implement interim order therein upto July, 2002. It was allowed permitting deposit of 50% wages on or before 30th June 2002. It is not in dispute that Soot Girani Kamagar Sanghatana is neither recognised nor approved Union in the Spinning Mill. It is also an admitted position that the Spinning Mill has neither deposited nor paid due wages to all workmen/employees as per interim orders passed in complaint (ULP) No. 73/2002.

14. Shri Suryawanshi, learned Advocate representing the Complainant submitted that cause of action in complaint (ULP) No. 73/2002 mainly pertains payment of due wages till February, 2002 whereas present complaint has closed those wages as well as from May, 2002 onwards. Bar under section 21(2) of the M.R.T.U. & P.U.L.P. Act is restricted to items 2 and 6 of Sch. IV of the said Act and hence individual complaint by an employee is perfectly maintainable.

15. The Spinning Mill has produced copy of complaint (ULP) No. 73/2002 with list Exh. C-6. The same pertains to non-payment of past wages. It is then prayed that the Spinning Mill be directed to regularly pay monthly wages as and when due. Section 21(2) of the M.R.T.U. & P.U.L.P. Act bars individual complaints under items 2 and 6 of Sch. IV of the M.R.T.U. & P.U.L.P. Act in certain cases. For that purpose, there must be a recognised union for the undertaking. Admittedly, Soot Girani Kamgar Sanghatana is not recognised for the undertaking of Spinning Mill. As such, bar under section 21 of said Act is not applicable and the complaint by an individual employee/Complainant is maintainable. Accordingly, I answer Point No.1 in the affirmative.

16. Advocate Shri Suryawanshi then argued that bare reading of section 59 of the M.R.T.U. & P.U.L.P. Act contemplates cases under the M.R.T.U. & P.U.L.P. Act at one hand and cases under the B.I.R. Act and I. D. Act on the other hand. Sanghatana's complaint as well as present complaint are under the M.R.T.U. & P.U.L.P. Act having different causes of action. As such present complaint is clearly maintainable. No serious arguments were advanced by Advocate Shri Patil, representing the Spinning Mill on this point.

17. It cannot be again said that non-payment of due wages within a stipulated time creates a cause of action to every employee of the Spinning Mill. Besides, the Complainant has prayed for direction to pay further wages from time to time. Both proceedings are under the M.R.T.U. & P.U.L.P. Act. In previous complaint, there is a collective dispute whereas present is individual. No proceeding under the I. D. Act or B. I. R. Act are instituted regarding subject matter of this complaint. In my judgment, therefore bare section 59 of the M.R.T.U. & P.U.L.P. Act is inapplicable and the complaint is maintainable. Accordingly I answer Point No. 2 in the negative.

18. The Complainant has filed his Affidavit (Exh. U-8) in lieu of his examination-in-chief. He has affirmed in terms of averments in the complaint. He has then affirmed that the Spinning Mill has paid wages to workmen and office employees on 26th October 2002, 18th November 2002, 8th January 2003 but his due wages are not paid on the ground of presentation of this complaint. His such version is nowhere denied by the Spinning Mill during his cross-exam. Besides, it is not case of the Spinning Mill that due wages are paid to the Complainant and false complaint is filed. The Spinning Mill has mainly pleaded its inability to pay wages and contributions for want of funds.

19. The Complainant is still in employment of the Spinning Mill. Previously, he was paid wages from month to month. As such, it is statutory obligation of the Spinning Mill to pay his wages as well as contributions of provident fund and Employees State Insurance Scheme. It is held in *Kamani Tubes Ltd. V/s. Kamani Tube Employees Union* reported in 1988(56) FLR at page 107 that contract of employment itself is an agreement and non-payment of wages for any reason is an unfair labour practice under item 9 of Sch. IV of the M.R.T.U. & P.U.L.P. Act. It is observed that phraseology of item 9 affords no scope for taking into account motive or reason or cause for the failure to implement an award, agreement or settlement. It was argued by Advocate Shri Patil that there are *bonafide* reasons for non-payment of wages as well as contributions. However, his such plea is unsustainable in law. I, therefore, hold that Respondents 1 and 2 have failed to pay wages as well as contributions of provident fund and Employees State Insurance Scheme; despite their statutory obligation and it amounted to an unfair labour practice under item 9 of Sch. IV of the M.R.T.U. & P.U.L.P. Act. Accordingly, I answer Point Nos. 3 to 7 in the affirmative.

20. To summarise, the complaint in individual capacity is maintainable and there is no bar of Sec. 59 of the M.R.T.U. & P.U.L.P. Act. Financial inability of the Spinning Mill to pay wages and other contributions is of no consequence and motive or reason or cause for the failure, cannot be considered. Respondents 1 and 2 have failed to discharge their statutory obligation which amounts to breach of contract of employment and is an unfair labour practice under item 9 of Sch. IV of the M.R.T.U. & P.U.L.P. Act. Respondents 1 and 2 cannot disown their obligations arising out of their contract of employment which itself is an agreement. As such, the complaint needs to be allowed.

21. To conclude, I pass following order :—

Order

(i) The Complaint is allowed.

(ii) It is declared that Respondents 1 and 2 have engaged in an unfair labour practice under item 9 of Sch. IV of the M.R.T.U. & P.U.L.P. Act.

(iii) Respondents 1 and 2 are directed to pay due wages to the Complainant within one month from today.

(iv) Respondents 1 and 2 are further directed to pay its contributions regarding Complainant's Provident Fund and Employees State Insurance Scheme, within one month from today.

(v) Respondents 1 and 2 are further directed to regularly pay due wages to the Complainant on or before 10th day of following each month, till he is in employment.

(vi) Parties shall bear their own costs.

C. A. JADHAV,

Member,

Kolhapur,

Dated the 9th June 2003.

Industrial Court, Kolhapur.

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR

APPEAL (IC) No. 1 of 2000 and 2 OF 2000.—Hutatma Kisan Ahir Sahakari Sakhar Karkhana Ltd, Walwa, At Post. Walwa, Tal. Walwa, District Sangli, through its Managing Director.—*Applicant.(Opponent of Appeal (IC) No. 2/2000).*—*Versus*—Shri Balaso Aaba Shelake, At Post. Walwa, Tal. Walwa, District Sangli.—*Opponent. (Petitioner/Appellant of Appeal (IC) No. 2/2000).*

In the matter of Appeals under section 84 of BIR Act, 1946.

Coram.—Shri C. A. Jadhav, Member.

Appearances.—Shri A. T. Upadhye, Advocate for the Applicant.

Shri K. D. Shinde, Advocate for the Opponent.

Judgment

These Appeals are arising out of judgment and order passed in Application (BIR) No. 86 of 1999 by Labour Court, Kolhapur, whereby, an employer is directed to reinstate its employee with continuity of service and 50% back wages with a liberty to the employer to award any lesser punishment than of dismissal, discharge or termination holding that punishment of discharge for proved misconduct of absenteeism is unjustifiable.

2. Appeal (IC) No. 1 of 2000 is preferred by the employer (hereinafter referred to as the Sugar Factory) challenging the finding that punishment of discharge is unjustifiable. Appeal (IC) No. 2/2000 is preferred by the employee (hereinafter referred to as the Applicant) challenging the findings that misconducts are proved in the enquiry and refusal of 50% back wages.

3. Admittedly, the Applicant was in employment of the Sugar Factory as a permanent employee since long. The sugar factory transferred the Applicant and many other employees by order dated 28th October 1993. The Applicant was transferred to Gavan Department. The Representative Union Walwa Taluka Rashtriya Kamgar Sangh (INTUC) challenged the transfers before this Court. Initially, this Court granted stay to transfer, however, vacated the stay order, later on. The Union then approached the Hon'ble High Court and the Writ Petition is pending.

4. It is case of the Applicant that he was working as a Turbine Attendant but the Sugar Factory is not implementing provisions of Labour laws. He was not allotted the work as per his designation, no Badali or compensatory off as well as over-time wages were given to him. He was *malafidely* transferred to Gavan Department where there was no work of his category and grade. It is alleged that the Sugar Factory got annoyed as the Representative Union challenged the transfers in this Court and, therefore, did not allow the Applicant to join duties, although there was stay order to the transfer. His attendance card was not even punched. He made various applications, from time to time, to allow him to join duties but those were not entertained. On the contrary, a false show case notice was served upon him on 2nd December 1993 alleging absenteeism. He gave proper reply on 5th December 1993, even then false chargesheet alleging absenteeism was served upon him on 8th December 1993.

5. It is further alleged by the Applicant that his enquiry was simply a farce, no documents were furnished to him and no proper opportunity was given to him in the enquiry. Material witnesses were not examined and he was not allowed to effectively cross-examine the witnesses examined. Besides, findings of the Enquiry Officer are baseless and perverse. There was no evidence before the Enquiry Officer to hold him guilty. It is further alleged that the Sugar Factory desired to remove him from service by hook or crook and, therefore, illegally terminated him. His termination is by way of victimisation, not in good faith but in colourable exercise of

employer's right, for patently false reasons, with undue haste, in utter disregard to the principles of natural justice and shockingly disproportionate. In fact, standing orders of the Sugar Factory do not provide for the punishment of discharge and hence punishment is contrary to the Standing orders.

6. On above averments, the Applicant prayed for setting aside order of punishment with reinstatement with continuity of service and full back wages.

7. The Sugar Factory filed its written statement at Exh. C-8 and traversed some of the material allegation made by the Applicant. It contended that Applicant's plea of working as a Turbine Attendant is false but he was working as oilman. All transferred employees, except the Applicant have joined at the transferred place. This Court vacated order granting stay to the transfers. The Representative Union challenged the same before the Hon'ble High Court but the Writ Petition came to be dismissed. Now, the Representative Union has approached Division Bench of Hon'ble High Court and the matter is pending.

8. It is case of the Sugar Factory that Applicant's explanation to the show cause notice was unsatisfactory and hence a chargesheet was issued to him on 8th December 1993. Independent Enquiry Officer was appointed wherein, proper opportunity was extended to the Applicant. The Applicant engaged Union Representative who thoroughly cross examined management witnesses. Copies of all documents were supplied to the Applicant and the enquiry is fair and proper. Charge Nos. 1, 2 and 5 came to be proved in the enquiry. Copy of Enquiry Officer's report was also delivered to the Applicant. It was resolved in meeting dated 27th August 1995 of Board of Directors to terminate the Applicant instead of dismissing him. Even then, he was paid compensation of Rs. 8803.90 ps. Proved misconducts are grave and serious and Sugar Factory has suffered a lot on account of Applicant's unauthorised abseteesm. As such, the punishment is legal and proper. Finally, the sugar factory justified its action and prayed for dismissal of the application.

9. Considering rival pleading, the labour Court framed issues at Exh. O-3 and the parties went to the trial. The Applicant examined himself at Exh. U-13 whereas the Sugar Factory its Clerk - Shri Kamble at Exh. C-8. The Applicant filed copies of show cause notice, chargesheet, enquiry papers and findings of the Enquiry Officer, with list Exh. U-8.

10. Learned Labour Court, on perusal of evidence and hearing both parties, observed that the Applicant was given sufficient opportunity in the enquiry and then held that the enquiry is fair and proper. It then observed that the Applicant neither reported nor worked in Gavan Department with effect from 2nd November 1993 and then held that findings of the Enquiry Officer are well justifiable. It then observed that Sugar Factory's standing orders provide loss of lien on the employment due to unauthorised absence for more than 10 days as well punishment of discharge. It then held that the Applicant is in employment for more than 10 years and, therefore, punishment of discharge is justifiable. Finally, it allowed the application, as above, by judgment and order dated 29th February 2000. The same is challenged in these appeals.

11. I heard both Advocates at length. Considering rival submissions, following points arise for my determination :—

- (i) Whether impugned finding that findings of the Enquiry Officer are justifiable, is legal and proper ?
- (ii) Whether impugned findings that the punishment is unjustifiable, is legal and proper ?
- (iii) What order ?

12. My findings, on above points, are as under :—

(i) Yes.

(ii) No.

(iii) Appeal (IC) No. 1/2000 is allowed and Appeal (IC) No. 2/2000 is dismissed.

Reasons

13. I must state in the beginning itself that no serious arguments were made by either parties regarding fairness of the enquiry. But it has come on the record that an Advocate was appointed as the Enquiry Officer and management witnesses were cross-examined by representative of the Applicant. The Applicant filed written arguments before the Enquiry Officer and his explanation was called regarding the punishment by delivering copy of enquiry report. Learned Labour Court, therefore, has rightly held that the enquiry is fair and proper.

14. Shri Shinde, learned Advocate representing the Applicant vehemently argued that the Applicant went to join duties on 2nd November 1993 after rejection of interim application in complaint (ULP) No. 415/93, however, was neither allowed to join duties nor his attendance was marked. On the contrary, he was illegally marked as absent. He sent written representations to the Sugar Factory that he is not allowed to join duties however, those were refused. As such, charge of misconduct is fabricated one. But the Labour Court did not appreciate evidence on record in a proper perspective and erred in accepting findings of the Enquiry Officer.

15. Shri Upadhye, learned Advocate representing the Sugar Factory replied that plea of refusal to join duties is totally after thought. In fact, about 20 employees were transferred and all of them were allowed to join duties at the transferred places. There was no grudge against the Applicant alone so as to prevent him from joining duties. There is no evidence on record to show that the Applicant was not allowed to join duties after 2nd December 1993. The Applicant was chargesheeted on 8th December 1993. Alleged representations produced with list Exh. U-11 are of 27th September 1994, 19th October 1994 and 4th November 1994. Those are totally concocted one and not of the relevant period. Besides, the Applicant would have immediately approached the Union regarding refusal to join duties. Therefore, learned labour Court has rightly held that findings of the Enquiry Officer are justified.

16. The Complainant has examined himself at Exh. U-13. He has replied in the cross-examination that he has not made complaint to the Board of Directors regarding refusal to allow him to join duties. Learned Labour Court has observed that the Complainant never worked in Gavan Department with effect from 2nd November 1993 and it is not case of the Applicant that he reported at any time to work in Gavan Department. In my judgment, Applicant's such conduct is contrary to the principles of preponderance of probabilities. He and other transferred employees approached the Union regarding their transfers. As such, he had no difficulty to approach the Union if really he was not allowed to join duties. Besides, alleged letters sent to the Sugar Factory are of September to November, 1994 and nowhere depict that he was not allowed to join duties after 2nd November 1993. Besides, there is no evidence on record to show that the Applicant Union was not allowed to join duties and *malafide* there of. Averment of *malafides* regarding the same are vague and general. I, therefore, hold that learned Labour Court has rightly accepted findings of the Enquiry Officer to be justifiable and flowing from the record. Accordingly, I answer Point No. 1 in the affirmative.

17. Advocate Shri Upadhye argued, in the second phase, that three misconducts *i. e.* indiscipline, unauthorised absence and loss of lien as per Standing Orders of the Sugar Factory are proved. Learned Labour Court has held that certified standing orders provide for loss of lien due to unauthorised abseteesm and punishment of discharge is also provided. As such, the Sugar Factory has clearly followed provisions of the certified standing orders. Therefore, it cannot be held that punishment of discharge is unjustifiable. In fact, it is a lesser punishment. In addition, compensation and one month's wages are paid to the Applicant. But the labour Court has failed to consider impact of the abseteesm. observations of the Labour Court that punishment of discharge is unjustifiable, nullify the very clause of loss of lien, as provided in the certified standing orders. He further submitted that the Applicant was transferred on a key post and that too in the crushing season of the sugar factory. His unauthorised absence, therefore, cannot be said to be a minor or technical misconduct. But learned Labour Court considered proved misconducts in a casual manner and branded punishment of discharge as unjustifiable. In support of his arguments, he placed reliance on various decisions. I will refer them in my further discussions.

18. Shri Shinde, learned Advocate representing the Applicant countered above arguments and replied that the labour Court can well appreciate quantum of punishment while deciding its propriety. The Complainant was transferred to Gavan Department wherein, there was no work of his category and grade. The sugar factory got annoyed as the transfers were stayed, and, therefore, decided to terminate his services by hook or crook. He further argued that agricultural income cannot be accepted to be a gainful employment and, therefore, the labour Court ought to have granted full back wages instead of 50%.

19. It is not in dispute that the Sugar Factory has certified standing orders, wherein there is a provision that unauthorised absence of more than 15 days beyond the period of leave originally granted or subsequently extended, shall amount to loss of lien over the appointment. Besides, punishment of dismissal or discharge is also provided thereunder. Learned Labour Court has endorsed both these provisions. As such, it has to be accepted that the Sugar Factory acted within four corners of the certified Standing Orders while awarding punishment to the Applicant.

20. As regards propriety of the punishment, it cannot be denied that absenteeism erodes the very potentiality, crediability and productivity of any Company or organisation and punctuality is must. Regularity in attendance is implied service condition and an employee must not absent himself from work, without sufficient cause. In the present case, Applicant's explanation that he was not allowed to join duties is totally after thought and rightly disbelieved by labour Court. Advocate Shri Upadhye rightly submitted that the Applicant prepared record to over come charge of absenteeism and was never willing to join duties. Thus, there is no cause much less sufficient cause for absence.

21. Advocate Shri Upadhye, relied on the decision in *North West Karnataka Transport Corporation V/s. S. J. Fernandes reported in 2001 (89) FLR at page 813* where it is observed that unauthorised absence from duty has very serious disruptive effect on employer's service. The Courts will have to construe the provisions strictly and punishment in consonance with gravity of misconduct has to be imposed. A note of caution is directed in this decision to industrial Courts and Tribunals observing that reinstatement in a mechanical mode requires to be disapproved of unless facts and circumstances of a peculiar cases judiciously fully justify said order. It is also observed that mechanical reinstatements create a premium on indiscipline, those persons become virtually uncontrollable on next occasions and are the worst possible example to their colleagues. It is also explained that punishment will have to be imposed which can work as a example to other, otherwise, it develops misplaced confidence that irrespective of the nature of the misconduct the employee well still get away lightly.

22. Advocate Shri Upadhye relied in another decision in *M. D. Kawade V/s. Mahindra Engineering and Chemical Products Ltd. reported in 2000 (85) FLR at page 217* and argued that punishment of dismissal on account of absence for 23 days is held to be proper and legal. I am respectfully bound by observations in above decisions. It is observed that a workmen must be always “at work” and not “away from work” and that should be our work culture.

23. Advocate Shri Upadhye relied upon many other decisions. I am respectfully bound by observations therein wherein, it is held that punishment of dismissal for proved abseteesm is not shockingly disproportionate.

24. Considering observations in the decisions relied by Advocate Shri Upadhye, it cannot be accepted that proved misconducts are of minor or technical nature. No doubt, there may be compelling circumstances like illness of an employee or death of his nears and dears, which may justify absence. In this case, plea of refusing to allow to join duty is after thought. Thus, it is a calculated misconduct and cannot be considered in a casual manner. It cannot be ignored that the period of absence was during crushing season of the Sugar Factory and absence of any employee adversely affected entire team work. In such background, provision of loss of lien is made and the same is certified while certifying the Standing Orders. As such, learned Labour Court erred in holding that punishment of discharge is unjustifiable. On the contrary, the same is provided under the certified standing orders and is well justifiable. No prudent employer will continue to employ such an employee who has no cause must less sufficient cause for absenteeism. Accordingly, I answer Point No. 2 in the negative.

25. In the background of above discussions and findings, Sugar Factory’s appeal has to be allowed by dismissing Applicant’s appeal.

26. To conclude I pass following order :—

Order

- (i) Appeal (IC) No. 1 of 2000 is allowed.
- (ii) Impugned decision directing Applicant’s reinstatement with continuity of service alongwith 50% back wages, is set aside.
- (iii) Application (BIR) No. 86/99 is dismissed.
- (iv) Appeal (IC) No. 2/2000 is dismissed.
- (v) Copy of this judgment be kept in other Appeal.
- (vi) Parties to bear their won costs.

Kolhapur,
Dated the 10th June 2003.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

IN THE INDUSTRIAL COURT, AT MUMBAI

REVISION APPLICATION (ULP) No. 94 of 2001.—(1) M/s. ICC Worldwide, Lotus House, Andheri-Kurla Road, Andheri East, Mumbai 400 072; (2) Shri Gopalkrishna Shankar Revankar, Propriator, M/s. ICC Worldwide, Lotus House, Andheri-Kurla Road, Andheri East, Mumbai 400 072; (3) Mrs. Anagha Varandar, General Mangar, M/s. ICC Worldwide, Lotus House, Andheri-Kurla Road, Andheri East, Mumbai 400 072.—*Applicants.*—*Versus*—(1) Shri Vilas B. Sakpal, Vakola Pipe Road, Sidharth Nagar, Krishna Panaskar Chawl, Santaruz East, Mumbai 400 053; (2) Shri Sakharam *Alias* Raju Bhaskar Divkar, Gangaram Shetty Chawl, Room No. 406/07, Goli Bar, Third Lane, Santacruz East, Mumbai 400 053; (3) Shri Vilas Vithal Kabre, Lokmanya Nagar, Pada No. 3, Ganash Nagar, Solapur Chawl, Thane; (4) Shri Prakash A. Satale, Penkar Wada, Sadu Mhatre Chawl, Dahisar East, Thane.—*Respondents.*

In the matter of revision application under Sec. 44 of the M.R.T.U. & P.U.L.P. Act against the Order dated 10th July 2001 passed by XIth Labour Court, Mumbai, in complaint (ULP) No. 502 of 1998.

Present—Shri P. P. Patil, Member, Industrial Court, Mumbai.

Appearances—Mr. N. M. Makandar, Advocate for Applicant.

Mr. R. V. Sankpal, Advocate for the Respondents.

JUDGMENT AND ORDER

(Dated 18th July 2003)

By this revision, the Applicants are challenging the order dated 10th July 2001 passed by XIth Labour Court, Mumbai, in Complaint (ULP) No. 602 of 1998 and thereby allowed the application for interim reliefs Exh. U-8 directing the present applicants (original Respondents) to re-employ the present Opponents (original Complainants) and pay their regular wages per month for which work to be assigned till final disposal of the complaint.

2. The facts in brief of this revision are as follows :—

An application Exh. U-8 was moved by the Opponents on 8th March 2001 under Sec. 30(2) of the M.R.T.U. & P.U.L.P. Act for interim relief to issue directions to the Applicants to allow the Opponents to report for work, to pay their wages, to restrain from recruiting any employee in any category without permission of the Court, the complaint was filed by the Opponents on 29th October 1998 for the relief of reinstatement with continuity of service and back wages. The Applicants have terminated the services of the Opponents with effect from 13th October 1998 by way of retrenchment. The Applicants have produced certain documents including the letter of retrenchment, statement of dues of 13 workmen. But these letters never offered to the workmen and thus the retrenchment orders are false and baseless. The Opponents were working with the Applicants since last 25 years continuously without any break and during this period the Applicants never issued them appointment letters. The staff of the Applicants was divided into two categories first office staff and second field staff and there were no departments such as operation, drivers, watchmen, peons, cleaning in the company of the Applicants.

3. After the alleged retrenchment, the Applicants have employed few workmen mentioned in para 4 of the application as field staff and they are performing their duties. The Applicants have also recruited receptionist and they have taken back Madhukar Kadam and Shivram Shinde. The employment was also offered to Vilas Chopdekar and Appaji Kumbhar at the instance of Bhai Jagtap, who is the General Secretary of Bhartiya Kamgar Karmachari Mahasangh. The Opponents have requested the management of the Applicants to take employees back in the employment as per the seniority but without following the seniority fresh recruitments were made as well as taken the retrenched employees.

4. The Applicants have also hired outside private courier services for their local business and giving regular work to M/s. Mobile Courier, M/s. Speed Lines, M/s. Patel Courier, M/s. Jes Worldwide Courier and others. The Applicants have also engaged private contractors for work force for delivering parcels, documents and consignments, but the Applicants have not offered employment to the Opponents. The Applicants have failed to comply with the provisions of Secs. 25-F, 25-G and 25-N of the Industrial Disputes Act. The Applicants have also violated the provisions of Sec. 25-H of the Industrial Disputes Act, 1947, therefore filed the application for interim reliefs Exh. U-8.

5. The Applicants have strongly resisted the interim relief application on the grounds that the services of the Opponents legally and lawfully have been retrenched, after paying their legal dues. According to the Applicants. the Opponents alongwith other 8 workmen retrenched their service with effect from 13th October 1998 by following due process of law. On the basis of the seniority list, the Applicants are also challenging the interim relief application because for identical reliefs application for interim reliefs was filed by the Opponents in Complaint (ULP) No. 404 of 1997 which came to be rejected and subsequently the said complaint was dismissed on 5th July 2000. It is the case of the Applicants that they have taken back some workers in their employment, but in different categories having no connection with the categories under which the Opponents were working. The Applicants have given details under which categories the workmen are engaged or employed. It is contended by the Applicants that Madhukar Kadam retrenched employee who had accepted his legal dues was taken in employment as fresh candidates on the post of Typist and not as a peon. It is denied by the Applicants the allegations of engaging outside private couriers for the local services. In view of the developments and to run smooth business, it was necessary to engage the workmen in different categories but not in the category under which the Opponents were working.

6. After having been heard both parties, the learned Labour Judge was pleased to allow the interim relief application Exh. U-8 by order dated 10th July 2001 which is impugned in the present revision.

7. The impugned order is challenged by the Applicants in various grounds such as maintainability of the complaint, in view of dismissal of Complaint (ULP) No.404 of 1997. There is no change in the situation from the time the earlier interim relief application was filed. The services of the Opponents have been retrenched by scrupulously following the procedure and after displaying the seniority list, the final relief is granted at the interim stage without giving an opportunity to lead evidence.

8. Heard the learned Advocates for the Applicants and the Opponents.

9. The following points arise for my determination :—

POINTS :—(1) Whether the Applicants have proved that the impugned order dated 10th July 2001 is illegal, perverse, therefore, it is liable to be quashed and set aside ?

(2) What order ?

FINDINGS :—(1) Yes.

(2) Revision is allowed.

Reasons

10. There is no bar to file number of interim relief applications one after another in the changed or developed circumstances. The interim relief application Exh. U-2 filed alongwith the complaint was requested to be decided alongwith the main complaint. According to the Opponents, the reason of filing the second interim relief application Exh. U-8 because of the subsequent development and change in the circumstances. As per the allegations made in the Exh. U-8 relating to the development and change in the circumstances, mainly are with regard to the fresh recruitment, some retrenched employees were taken back by the Applicants in their employment hired outside private courier services.

11. Undisputedly, Complaint (ULP) No. 602 of 1998 initially was filed by the Union Bhartiya Kamgar Karmachari Mahasangh, which is replaced by the present 4 Opponents. The said union was protecting the interest and benefite of total 12 workmen mentioned in Annexure-A filed alongwith the complaint. Out of which, 8 workmen have amicably settled their disputes with the Applicants and withdrawn themselves from the proceedings. Thus, the dispute remains of only 4 Opponents.

12. The Applicants are very much serious about maintainability of the complaint itself in view of the identical reliefs was sought by the Complainants in Complaint (ULP) No. 404 of 1997 which came to be dismissed on 5th July 2000. Xerox copy of the stay application which was filed in the said complaint filed by the Applicants to show that the reliefs sought thereunder to stay execution and implementation of the retrenchment order dated 13th October 1998 and allow the concerned workmen, who have been retrenched, to report and resume on duty was not considered in the said proceedings. The instant interim relief application Exh. U-8 filed for the reliefs to allow the Opponents to report for work and direct the Applicants to pay their wages till the decision of the main complint as well as restrain the Applicants from recruiting any employee in any category. The interim relief application is strongly resisted by the Applicants on three grounds, firstly it is not maintainable that in view of identical reliefs relief was not considered in the earlier Complaint (ULP) No.404 of 1997; secondly the Opponent's services have been retrenched after following due process of law and paying their legal dues and lastly, no appointment was made of fresh candidates, nor retrenched employees were called back in the employment in the catagery in which the Opponents were working. Let us take the first objection raised by the Applicants to the maintainability of the interim relief application. The applicants are trying to canvass that the instant application in view of the result of Complaint (ULP) No. 404 of 1997 is not maintainable because the principle of rejudicats operates. For taking inti consideration the principle of rejudicats, it is necessary to allow the parties to prove their rival contentions after leading the evidence. Therefore, *prima facie*, it is difficult at this interim stage to consider this issue, because at the interim stage the Court has to see as to whether the *prima facie* case has been made out by the party or not, who is seeking interim relief. Second objection raised by the Applicants that in view of the services of the Opponents have already been retrenched after paying their legal dues and following the precedure laid down. The Applicants have also come with the case of displaying the seniority list and accordingly the services of 13 workmen were retrenched. The opponents have denied the allagation of retrenchment of their services as per the seniority list following due process of law and receipt of the legal dues. The learned Advocate for the Applicants has straneously argued that the points as to whether the services of the Opponents have been illegally retrenched or not needs to be considered after full opportunity is given to the parties and only on the basis of the affidavit, such issue cannot be determined. According to the Applicants, they have not engaged any fresh candidate for doing work or in the category under which the Opponants were working. The Applicants have given the nature of work or the post for which fresh candidates are recruited as well as the retrenched employees called back to work under different categories. Therefore, the learned Advocate for the Applicants has submitted that the Opponents have failed to make out their case *prima facie* even for re-employment, because no workman either recruited or engaged in the category under which the Opponents were working.

13. Voluminous documents are placed on record by the Applicants and the affidavits in support of proving their contention of retrenchment of services of the Opponents after following the mandatory provisions laid down in Secs. 25-F, 25-C of the Industrial Disputes Act and Rule 81, therefore, the retrenchment is genuine, bonafide and fully justified. The learned Advocate for the Applicants has pointed out that the interim reliefs and final reliefs are identical, therefore, the learned Labour Judge should not have granted such reliefs at the interim stage and he has placed reliance on the case of Ichalkaranji Municipal Council V/s Raju Bendu Taral and others, reported in 1999-I-CLR-1257 Bombay wherein it is held —

“Even if it is assumed that Respondent No. 1 was eligible to get employment on compensssionate ground, he had no right to get an employment though he may be entitled to have his claim considered and in this situation, the Industrial Court was not at all justified in granting interim relief which was in the nature of final relief.”

14. It is one of the points to be considered while deciding the interim relief application as to whether the party claiming such reliefs has made out a strong *prima facie* case. The learned Advocate for the Applicants has submitted that the strong *prime facie* case alone cannot form basis for grant of interim reliefs, because balance of convenience and irreparable loss also needs to be taken into consideration and he placed reliance on the case of India United Mill No. 2 V/s. Ram Murat Haridwar Kurmi and others, reported in 1996-II-CLR-716 Bombay wherein it is held in Para 5 that—

“The Industrial Court did not appreciate that if ultimately the first Respondent succeeds, he could be adequately compensated with the grant of wages for three years. Allowing the interim relief application at this stage tantamounts to granting the first Respondent interim relief to which ultimately he may not be found entitled to. The Industrial Court has wrongly exercised the discretion and to say the least in a most unjustified manner.”

The learned Advocate for the Applicants during the course of arguments has made submission that if the Opponents are taken back in the employment and on merits if they fail to prove their case, under such circumstances, the Applicants would be put to irreparable loss, which may not be compensated in terms of money. No doubt, the retrenched workmen have preferential right as per provisions of Sec. 25-H of the Industrial Disputes Act, provided they prove that the employer has restarted the business or whatever business is available for running it likely to recruit fresh candidate on the post or in the category under which the retrenched workmen were working. An employer *prima facie*, established that they have not made any recruitment of the candidates in the category where the retrenched workmen were doing the jobs. Under such circumstances, it cannot be said that the employer engaged in any unfair labour practices under Sec. 25-H of the Industrial Disputes Act. It is held in the case of Jaswinder Singh Passi V/s. The Registrar, Co-op. Socy. Punjab Udyog Building and another, reported in 1972-LIC-54 wherein it is held that—

“(A) Industrial Disputes Act, 1947, Sec. 25-H Retrenchment- Re-employment- Retrenched employees have no right of reinstatement- He only has a preferential treatment over other candidates.”

Further, it is held in *supra* that—

“(B) Civil P. C. (5 of 1908)-Costs- retrenchment- Hon. compliance of procedure contemplated under Sec. 25-H of ID Act- Court directions to offer employment to retrenched employee not followed- Heavy costs imposed on employer.”

The learned Advocate for the Applicants by placing reliance on the case of Parry's (Cal) Employees Union V/s. Third Industrial Tribunal, West Bengal and another reported in 2001-I-CLR-777, has submitted that when therein is a compliance of Sec.25-F and 25-G of the I. D. Act, no interim relief either reinstatement or re-employment can be considered unless on merits find out as to whether there was such compliance on the part of the employer or not. In the said case it is held that—

“Industrial Disputes Act, 1947- Sec. 25-F- Payment of retrenchment compensation Sending of money by an A/c payee Cheque by registered post with acknowledgment due on the date of retrenchment is sufficient compliance for the provisions of Sec. 25-F of the Act notwithstanding the fact that actual amount has been received subsequently.”

Further it is held in *supra* that—

“Industrial Disputes Act, 1947- Sec. 25-G- Last come first go In ordering reinstatement ordinarily, the management should commence with the latest recruit and progressively retrenched employees higher up in the list of seniority, but the said rule is not immutable and for valid reasons may be departed from.”

Reliance is also placed on the case of *Vikas Bankar V/s. Rajasthan State Handloom Development Department* and another reported in *1996-II-CLR-182 Rajasthan*, wherein it is held—

“Industrial Disputes Act Sec. 25-G Tender of dues Workman given a letter of retrenchment alongwith cheque of his legal dues- By mistake cheque was undated-workman not getting mistake rectified and challenging retrenchment for want of valid tender of dues- Held : In the circumstances of the case, it must be held that there was valid tender of dues.

Further, it is held in *supra* that—

“Industrial Disputes Act Sec. 25-G. Rule of “last come first go” Not immutable Workman who had completed twenty months of service retrenched- He was discharged on account of his poor performance and unsuitability to job- workman challenging retrenchment on the ground of violation of the rule of “last come first go”. Held. The rule cannot be said to be immutable- Its departure for valid reason is permissible. Certain amount of freedom to employer to use his best judgement and discretion in the absence of allegation of *mala fide* cannot be held as arbitrary.”

15. learned Labour Judge has not considered the criteria while dealing with the interim relief application, such as, *prima facie* case, balance of convenience, injury and damaged which may not be compensated in terms of money. *Prima facie*, the Opponents have failed to make out their case of proving that the Applicants made recruitment of fresh candidates in the category in which the Opponents were working. So also, the Opponents have not brought sufficient material on record for establishing *prima facie* case, in case interim relief application is not considered, they will be put to hardships or irreparable loss. The Applicants have succeeded in establishing that balance of convenience lies in their favour, in view of the objection raised by them to the maintainability of the complaint, retrenchment of services of the Opponents after following due process of law and paid wages and no fresh recruitment is made in the category under which the present Opponents were working. Unless all these points are decided on merits, which go to the root of the case, there is no question of consideration of the interim reliefs, as prayed by the Opponents. In the light of the ratio laid down in various cases cited above and considering the facts and circumstances of the present revision application, the learned Labour Judge failed to appreciate it in its correct perspective, therefore came to wrong conclusion. Consequently, the impugned order deserves to be quashed and set aside, as per the order passed below—

Order

(1) Revision Application (ULP) No. 94 of 2001 is hereby allowed.

(2) The impugned order dated 10th July, 2001 passed in complaint (ULP) No.602 of 1998 below the application for interim reliefs Exh. U-8 is hereby quashed and set aside, with no order as to costs.

(3) Records and Proceedings of complaint (ULP) No. 602 of 1998 be sent to the XIth Labour Court. Mumbai, immediately.

Mumbai,
dated the 18th July 2003.

P. P. PATIL,
Member,
Industrial Court, Mumbai.

S. R. ADAV,
Dy. Registrar,
Industrial Court, Mumbai.
dated the 24th July 2003.

IN THE INDUSTRIAL COURT, AT MUMBAI

APPEAL (IC) Nos. 50/2001; 51/2001; 52/2001; 53/2001; 64/2001 AND 65/2001.

APPEAL (IC) No. 50 of 2001.—M/s. Swan Mills Limited, T. J. Road, Sewree, Mumbai 400 015—*Appellant*.—*Versus*—(1) Umashankar M. Kumbar Daroowala, Patra Chawl, Chawl No. 31, Room No. 6, P. B. Marg, Mumbai 400 013, (2) Hon'ble Judge, 8th Labour Court, Mumbai—*Respondents*.

APPEAL (IC) No. 51 of 2001.—M/s. Swan Mills Limited, T. J. Road, Sewree, Mumbai 400 015 —*Appellant*.—*Versus*—(1) Lalchand Biharilal Tiwari, Room No. 3, Lala Satyanarayan Chawl, Behind Swan Mills (Process House), T. J. Road, Sewree, Mumbai 400 015, (2) The Hon'ble Judge, 8th Labour Court, Mumbai.—*Respondents*.

APPEAL (IC) No. 52 of 2001.—M/s. Swan Mills Limited, T. J. Road, Sewree, Mumbai 400 015 —*Appellant*.—*Versus*—(1) Harishchandra Ganoo Ganekar, R. No. 78, Heera Sath Chawl No. 1, Golanji Hill Road, Sewree, Mumbai-15, (2) Hon'ble Judge, 8th Labour Court, Mumbai.—*Respondents*.

APPEAL (IC) No. 53 of 2001.—M/s. Swan Mills Limited, T. J. Road, Sewree, Mumbai 400 015 —*Appellant*.—*Versus*—(1) Shrirang Ramchandra Suryavanshi, R. No. 78, Heera Sath Chawl No. 1, Golanji Hill Road, Sewree, Mumbai-15, (2) Hon'ble Judge, 8th Labour Court, Mumbai.—*Respondents*.

APPEAL (IC) No. 64 of 2001.—Lalchandra Biharilal Tiwari, Room No. 3, Satyanarayan Chawl, Behind Swan Mills (Process House), T. J. Road, Sewree, Mumbai 400 015—*Appellant*.—*Versus*—(1) M/s. Swan Mills Limited, (Process House) T. J. Road, Sewree, Mumbai 400 015, (2) Hon'ble 8th Labour Court, Mumbai.—*Respondents*.

APPEAL (IC) No. 65 of 2001.—Umashankar Mangroo Kumhar, Daroowala Patra Chawl, Chawl No. 3, Room No. 6, P. B. Marg, Mumbai 400 013.—*Appellant*.—*Versus*—(1) M/s. Swan Mills Limited, (Process House) T. J. Road, Sewree, Mumbai 400 015, (2) Hon'ble 8th Labour Court, Mumbai.—*Respondents*.

In the matter of Appeals under Sec. 84 of the Bombay Industrial Relations Act, 1946 against the orders dated 30th April, 2001 passed by 8th Labour Court, Mumbai, in Applications (BIR) Nos. 11/1992, 112/1992, 09/1993 and 10 of 1993.

PRESENT.—Shri P. P. Patil, Member, Industrial Court, Mumbai.

Appearance.—Shri I. A. Engineer for the Applicants.

Shri S. S. Achrekar Advocate for the Opponent.

Common Judgement and Order

(Dated 18th June 2003)

By Appeals (IC) Nos. 50 of 2001 to 53 of 2001 (original Opponents) challenging the order dated 30th April 2001 in entirety. The original Applicants who are Appellants in Appeals (IC) Nos. 64 of 2001 and 65 of 2001 filed counter appeals raising grievances against some part of the order dated 30th April 2001 *i.e.* continuing the continuity in service and full back wages.

Though the original Applicants and Opponents have filed separate appeals under which challenging separate judgements passed by 8th Labour Court, Mumbai, in 30th April 2001 in Applications (BIR) Nos. 111/1992, 112/92, 09/1993 and 10/1993, but all the appeals are disposed of by this common judgement as the controversy involved is identical, including the facts and circumstance.

The parties to the appeals are referred in their original status acquired before 8th Labour Court, Mumbai, for brevity and better convenience.

The brief facts of the appeals can be summarised as follows :

1. The Applicants have moved the Applications under Sec. 78 and 79 read with Sec. 42 (4) of the Bombay Industrial Relations Act challenging the action of the Opponent of denying reinstatement and wages after the Opponent mill started functioning. All the Applicants were in the employment of the Opponent working in clerical grade in Finishing Folding Department; Casting Department and Weaving Department from the respective dates of their appointment. The Opponent has pulled down the shutter on and from 27th January 1989 and not allowed them to resume work and denied the wages. The workers, including the applicants, have collectively made efforts to commence operation of the Opponent mill, but they failed in their attempts. The workers thereafter organised themselves and initiated proceeding for taking over the mill. The Opponent in the proceedings before the authorities under the BIFR furnishes the scheme and started operation in the Opponent mill at sewree and Swan Mill and Kurla from 1st April 1991. The production activity of Process House was commenced from 1st December 1991. The Applicants had repeatedly approached the Opponent for work after restarting the mill, but the Opponents denied to allow them to work. Therefore, the Applicants issued notices of approach on different dates. The Junior workers have been allowed to work by the Opponent. Thus, the Opponents have shown discrimination while engaging junior workers. The Applicants are still employees of the Opponent, as they neither retrenched nor laid off therefore, relationship as employees and employer still exists. The applications have claimed relief to direct the Opponents to give work and wages.

2. The Opponents are strongly resisting the claim of the Applicants on the ground that the approach notice is barred by limitation and the BIFR *vide* its order dated 11th February 1988 declared the Opponent mills to be a sick unit. Further the stand taken by the Opponents that in view of the Memorandum of Understanding reached between the Opponents and the representative union dated 5th February 1991 only few departments re-started functioning and thus all workers cannot be accommodated. The BIFR by its order dated 20th February 1992 approved and sanctioned the scheme of rehabilitation, therefore, the Applicants can redress their grievances before the BIFR. The proceedings initiated by the Applicants is contrary to the scheme of rehabilitation, therefore, such applications cannot be entertained.

3. The appropriate Government by its order dated 7th January 1992 notified the period from 27th January 1989 till 30th November 1991 treated as legal lay off and no wages in any manner shall be payable to the employees for the said period. Looking to the availability of work, they re-started some departments, the Opponent has taken the workers in the employment essentially required. Some of the workers have tendered their resignations, who are entitled to get *ex-gratia* amount equivalent to the retrenchment compensation and other legal dues.

4. The legal objection raised by the Opponent to the maintainability of the applications in view of the provisions of Sec. 22 of the Sick Industrial Companies (Special Provisions) Act (hereinafter referred to as the SIC Act). The Opponents have deined the allegations of taking junior employees in the employment showing favour and refused employment to the applicants.

5. Heard the learned Advocates for the Applicants and the Opponent.

6. The following points arise for my determination :—

Points.— (1) Whether the applicants have proved that the impugned orders dated 30th April, 2001 suffer with illegality or perversity on account of denial of relief of continuity in service and full back wages ?

(2) Whether the Opponents have proved that the findings of the learned Labour Judge on the point of limitation is not in consonance with the legal provisions, therefore, the impugned orders are liable to be quashed and set aside?

(3) Whether the opponents have proved that the impugned orders are not sustainable under law in view of the scheme of rehabilitation approved by order dated 20th February, 1992 under the BIFR and the Memorandum of Understanding dated 5th February, 1991 ?

(4) What order ?

Findings.— (1), (2) and (3) No.

(4) Appeals (IC) Nos. 50 to 53 of 2001 filed by the Opponents and Appeal (IC) Nos. 64 and 65 of 2001 are dismissed.

Reasons

6. At the outset, there is no dispute of closure of the Opponent mill with effect from 27th January 1989, therefore, controversy restricted to determine as to whether the said closure is legal or not. But before touching to such controversy, it becomes necessary to look into the legal objection raised by the Opponent on the point of maintainability of the applications filed under the B. I. R. Act on account of the approach notice not served within the time limit prescribed under law. In accordance with the provisions of Sec. 42(4) of the B.I.R. Act, 1946, an application under the said Act shall be moved by employees or representative union in prescribed manner who wants a change in respect of any order passed by employer under standing order or in any industrial matter arising out of the application or interpretation of the standing orders or an industrial matter specified in schedule III (except item 5) within the prescribed period. The prescribed period is given under Rule 53 of the B.I.R. Rules 1957 for three months from the date of such order passed by employer. The approach notices served by the applicants on different dates upon the Opponent. In Appeal (IC) No. 50 of 2001 which arise out of the Application (BIR) No. 09/1992 was dated 3rd November 1992. In Appeal (IC) No. 51 of 2001 arises out of the Application (BIR) No. 10 of 1993, the approach notice was dated 19th November 1992 and the approach notices in Appeals (IC) Nos. 52 and 53 of 2001 arising out of the Applications (BIR) Nos. 111/1992, 112/1992 are dated 15th June 1992. The date of closure of the Opponent mill is common in all the appeals *i.e.* 27th January 1989. The Applicants are trying to take advantage of the provisions of Sec. 22 of the SIC Act, particularly the proviso to sub-section (3) of Sec. 22, which says declaration shall not be made for a period exceeding two years, which may be extended by one year or so, however, the total period shall not exceed 7 years in aggregate. It is pertinent to note that on plain reading of the provisions of Sec. 22 of the SIC Act, it is clear that the entire process is explained where the enquiry under Sec. 16 of the said Act is pending or any scheme referred under Sec. 17 is under preparation or sanctioned, but it is under implementation. The Board may by order declare with respect to sick industrial companies that the operation of all or any of the contracts, assurances of property, agreements, settlements, awards, standing orders shall remain suspended or any rights privileges, obligations and liabilities thereunder, such declaration shall not be made for total period of 7 years in the aggregate. Whether the provisions of Sec. 22 of the SIC Act will help the Applicants for extension of time limit to serve the approach notices upon the Opponent.

7. The learned Advocate for the Applicants strenuously argued on the point of limitation and according to him, since the Opponent pulled down the shutter from 27th January 1989 the applicants are continuously requesting the Opponent for work and wages and made efforts continuously. The learned Advocate for the Opponent has placed reliance on following cases on the point of limitation in the light of the provisions of Rule 53 of the B.I.R. Act.

(1) M/s. Chhotelal Jethabhai Patel and Company *Versus* The Industrial Court, Maharashtra, Nagpur Bench, Nagpur and others, reported in 1972 I LLJ 657 SC. and

(2) Vithaldas Vallabhadas Vaishanan V/s. Kohinoor Mills Company reported in 1979 II LLJ 24 Bombay.

On the basis of the ratio laid down in the above referred cases, he tried to convince as to how the approach notice is not within limitation. These cases were cited before the learned Labour Judge and after having discussed in the light of the facts and circumstances of the case, the learned Labour Judge held that the approach letter is not barred by limitation. The learned Advocate for the Opponent failed to satisfy this Court that the finding given by the learned Labour Judge is not supported with the evidence and the material. The ratio laid down in the above referred cases not applicable to the present case.

8. The learned Advocate for the applicants has invited attention of the Court as to how the approach notice is within time. According to him, there is no termination under standing orders and the provisions of Chapter V-A of the Industrial Disputes Act has over riding effect over all the enactments. In support of the arguments, the learned Advocate for the Applicants has placed reliance on the case of the Shankar Vilasrao Masurkar and another V/s. Shri Sitaram Mills and another reported in 2002 II LLJ 807 Bombay, wherein it is held—

“Bombay Industrial Relations Act, 1946, Secs. 42(4), 78(1) A(a) (iii) and 79-Schedule III Item 6-In case of no termination of service under standing orders, nor declaration of reasons for not giving work to workmen dispute held to be change sought by employees in respect of item 6 of schedule III of the Act Applications under Section 78 held, on facts, not barred by limitation.”

The observations made by the learned Labour Judge on the point of limitation is correct and hence does not call for any interference with such findings. The learned Advocate for the applicants has placed reliance on the case of Poonavasi and others V/s. Crown Silk Weaving Industries Limited and others reported in 1994 I CLR 1047 wherein it is held --

“Bombay Industrial Relations Act 1946, Sec. 78. Application as regates validity of otherwise of closure Applications decided with reference to the relevant provisions of the Industrial Disputes Act, 1947, Whether valid Held that it is evident from Sec. 25-G of the I. D. Act that Chapter V-A of the I. D. Act has an overriding effect over all other enactments on the subject referred to therein and as such a dispute regarding closure of an undertaking before Labour Court under Sec. 78 of the BIR Act has to be decided with reference to the relevant provisions of chapter V-A, particularly Sections 25-FFA, 25-FFF and 25-O.”

The learned Advocate for the Applicants has given more emphasis to the applicability of the provisions of the Industrial Disputes Act to the instant proceedings, particularly the provisions of chapter V-A of the ID Act and having overrrding effect over all other enactments, therefoe, the action of the Opponent of closing down the mills should be declared as illegal. By way of reply, the learned Advocate for the Opponent has made submission in the light of the provisions of Sec. 98 and 99 of the BID Act 1946, which are relating to the closure of the establishments, therefore, no question of provisions of the I. D. Act to come into play.

9. According to the Opponents, once the industry is declared sick, there is bar of proceedings against the sick industrial companies in view of the provisions of the Sec. 22 of the SIC Act. No doubt, the Opponent industry is declared as sick under the provisions of the BIFR. It is held in the case of the Deputy Commercial Tax Officer V/s. Corromandal Pharmaceuticals and others reported in 1997 (2) Scale 640 that suspension of legal proceedings, specified in Sec. 22 of the SIC Act, should be confined to the matters including any prepackage state of affairs only and not post package matters. In that case, the only cone was for collections of balance of tax arrears. It is further observed in the case referred above (supra) it will be reasonable to hold that the bar or embargo envisaged in Sec. 22(1) of the SIC Act can apply only to such of those dues reckoned or included in the sanctioned scheme. Thus, it is clear that bar is not applicable to the present proceedings because the applicants are claiming their legal dues which cannot be affected by the provisions of the SIC Act.

10. The learned Advocate for the Opponent has strenuously argued that the parties should go as per the Memorandum of Understanding and the Scheme of Rehabilitation. There was a settlement arrived at between the Management and the representative union i.e. RMMS on 28th September 1992 and by the said agreement, it was agreed upon to close some departments, therefore, the Opponent strongly resisting the claim of reinstatement or wages of the applicants. The learned Advocate for the applicants has placed reliance on the case of Balmer Lawrie Workers Union V/s. Balmer Lawrie and Company Ltd. and others reported in 1985 I LLJ 314 SC, wherein held--

“Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, Sec. 20(2) Right given under the Act to recognised union to appear and represent workmen in proceedings under the Industrial Disputes Act and such right to individual workmen Such provisions whether contravenes fundamental right guaranteed under Art. 19(1) (a) and (c) of Constitution of India”.

The learned Advocate for the Opponent during the course of his arguments has given much stress on the Memorandum of Understanding and, according to him, the rights given under the MRTU and PULP Act to recognised union to appear and represent workmen and any decision taken by such union is binding to all the workers, may be members of the union or may not. The language of Sec. 22 of the SIC Act is of wide import regarding suspension of legal proceedings from the moment an enquiry is started, till after the implementation of the scheme, but it will be reasonable to hold that bar or embargo envisaged in Sec. 22(1) of the Act can apply only to such of those dues reckoned or included in the sanctioned scheme. It is held in the case of Lalankumar Dubey V/s. Rajkumar Synthetisc Mills Ltd. reported in 2002 II LLJ 644 Gujarat, wherein held --

“Sick Industrial Companies (Special Provisions) Act, 1985, Sec. 22(1) Raising industrial dispute for reinstatement and back wages, not affected by Sec. 22(1) Hence stay of case involving such dispute before the Labour Court, held not justified.”

The objection is raised by the learned Advocate for the Applicants that the said scheme is not duly registered, therefore, the Applicants cannot be bound legally with the said scheme and they are entitled for the legal dues. The witness for the Opponents admits that the legal dues have not been paid to Applicants. According to the Applicants, the payment of legal dues is a condition precedent like retrenchment compensation for declaring the valied retrenchment. Thus, the Applicants likely to take benefit of the provisions of Sec. 25-F and claiming retrenchment compensation without complying with the provisions of Sec. 25-F of the I. D. Act is invalid and they are entitled to be reinstated. Admittedly, there is no seniority list displayed

by the Opponent and this fact is admitted by their witness. It means there is no evidence with the Opponent to show that they have complied with the rule of 'last come first go' while retrenching these workmen. So also, the applicants are invoking provisions of Sec. 25-G of the I. D. Act of non compliance of the principle of 'last come first go' and after restarting the departments, junior workers have taken in the employment declining the legitimate claim of the senior employees, including the Applicants. Undisputedly, some of the departments in the mills started functioning and they have offered employment to the workers but failed to show as to whether they complied with the provisions of Secs. 25-F and 25-G of the I. D. Act. The objection raised by the learned Advocate for the Opponent about applicability of the I. D. Act to the present proceedings has not force and according to him only because the industry is declared as sick under the SIC Act and the scheme of rehabilitation by BIFR, the original claim of the applicants cannot be overlooked once the declaration of sick industry come to an end in 1993.

11. It is admitted by the witness of the Opponent that the legal dues yet not offered to the applicants. There is no dispute of re-opening of some of the departments and engaging the workers. The provisions of ID Act having overriding effect and, therefore, it was obligatory on the part of the Opponents to comply with the provisions of Sec. 25-G and 25-H of the I. D. Act.

12. The learned Labour Judge has extended the relief of reinstatement and 20% back wages with effect from 3rd November 1992. Once the Opponent mill is re-opened and engaged in the production after having been employed some workers, the burden is on the Opponent to show that they acted fairly, bonafidely and reasonably, while giving employment as well as disbursing the legal dues. No evidence is brought on record by the Opponent to show that they dealt with fairly bonafidely with the rightful claim of the applicants. Therefore, the learned Labour Judge while considering the relief rightly exercised the discretion by granting 25% back wages. In view of re-opening of the Opponent mill the Applicants have right to claim reinstatement of re-employment. The Opponents have failed to point out illegality, perversity or arbitrariness with the impugned order, therefore, I find no substance in the appeals filed by the Applicants as well as the Opponents. In this view of the matter, all the appeals deserve to be dismissed as per the order passed below.

Order

Appeals (IC) Nos. 50/2001, 51/2001, 52/2001 and 53/2001 filed by the Opponent and Appeals (IC) Nos. 64 of 2001 and 65 of 2001 filed by the Applicants are hereby dismissed.

Parties shall bear their own costs.

Mumbai,

Dated the 18th June 2003.

P. P. PATIL,

Member,

Industrial Court, Mumbai.

IN THE INDUSTRIAL COURT, MAHARASHTRA AT MUMBAI

BEFORE SHRI P. B. SAWANT, MEMBER

MISC. APPLICATION (ICTU) No. 1 OF 2001.—Shri Sharad Shelar, Building No. 4, Room No. Government Colony, Bandra (E), Mumbai 400 051.—*Applicant.*—*Versus*—(1) M/s. Cine Costume & Make-up Artistes Association; (2) Smt. Balbir Ward, President; (3) Shri Anil Rajput, General Secretary; (4) Shri Subhash Modak, Vice President; (5) Shri Sajjad Shaikh; (6) Shri Nitin Bhavsar; (7) Shri Ranjit Singh Dhanjal, Treasurer; (8) Smt. Madhuri Nakhale, Co/. M/s. Cine Costume & Make-up Artistes Association, 8, Dadar Nilkanth Apartment, Gokuldas Pasta Road, Dadar, Mumbai 400 014.—*Accused.*

CORAM.—Shri P. B. Sawant, Member.

Appearances.—Shri D. N. Mandavia, Advocate for Applicant;

Shri G. D. Talreja, Advocate for Accused.

JUDGMENT

1. This is an application filed by the Applicant contending that the Respondent Accused have committed contempt of order passed by this Court dated 4th May 2001, 11th May 2001 and 9th June 2001 and thereby prayed that the Accused be punished accordingly within the meaning of Section 119A (1) and 119(B) of the B.I.R. Act. The facts which gave rise to the present litigation can be summarised as follows.

2. The Complainant is a member of M/s. Cine Costume & Make-up Artistes Association (hereinafter called as the “Association”) while Accused Nos. 2, 3 and 4 are the office bearers and 5 to 8 are the members of the Association. On 11th May 2001, this Court passed an order regarding enrollment of new membership. In spite of the specific directions that too charge the membership fee as per the Constitution, the Accused charged exorbitant fees to the new members. Thereby collected more than the amount as required under the provisions of law worth Rs. 80 crores from 800 new members. The accused have also collected Rs. 20,000 towards the donation which is also contrary to the law.

3. The office bearers have acted contrary to the provisions of the Constitution, in spite of the fact that they have no majority in the Executive Committee. Therefore, their Act is illegal. Secondly, this Court has directed that the Deputy Registrar of Trade Unions to be the observer while accepting the membership from the interested members and he shall countersign on the application and shall observe the procedure in the meeting of the Executive Committee for admitting the new membership strictly in accordance with the Constitution. It is alleged that the Accused have not complied with the same.

4. It is pointed out that by order dated 11th May 2001, the Complainant has asked for the names and addresses of the members. Though assured to provide such information, but those were not furnished amounting to contempt of order of the Court. In spite of the order passed by this Court regarding Annual General Body Meeting dated 9th June 2001, the Accused acted contrary to that directions having no majority in the committee. Instead of finalising any agenda of the Executive Committee, no resolution, could have been passed and in spite of opposition to the resolution, the Accused proceeded to transact business and conducted the A. G. M. It is further pointed out that on 10th June 2001, the Accused obtained the order at the residence of the Member, Industrial Court without notice to the Complainant or his Advocate and changed the person of Deputy Registrar Trade Unions as observer in the General Body Meeting. The majority of the members of the Executive Committee have not approved and finalised the agenda by holding so called meeting on 24th June 2001. Therefore, the finalisation of the agenda is illegal and void. With this and other grounds, it is prayed that Accused Nos. 2 to 8 have committed contempt Court order and they be punished accordingly.

5. After hearing the Complainant, a notice was issued to the Accused. All the Accused have submitted vide Exh. UA-3, Exh. UA-5, Exh. UA-10, Exh. UA-11, Exh. UA-15, Exh. UA-16 and Exh. UA-12 that they have not committed any contempt and prayed for the dismissal of the application. It is the contention of Accused No. 2 that the Complainant has not approached the Court with clean hands. The Accused have faithfully and clearly carried out all the directions of this Court from time to time and intend to rely on the proceeding in Application (ICTU) No. 7 of 2000, Accused No. 3 pointed out that he has been falsely involved in the matter and adopted all the contentions along with other Accused as being mentioned by Accused Nos. 1 and 2 vide Exh. UA-3.

6. On hearing both the parties and their rival contention, following points arise for my determination,—

1. Does the Complainant prove that Accused Nos. 2 to 8 have committed contempt of order of this Court ? Negative.
2. What order ? As per final order.

Reasons

Point No. 1

7. The proceeding of contempt has been initiated under Section 119(A) of the B.I.R. Act. Clause (A) deals with producing or delivering of documents. Clause (B) deals with failure on the part of the person to bind himself by an oath or affirmation as per the direction of the Industrial Court. Clause (C) deals with failure to stay during on any subject to the Industrial Court or refused to answer any question touching the subject by such Court. Clause 'D' deals with intentionally offering any insult or causing any interruption to the Industrial Court at any stage of its judicial proceeding. Sub-clause (2) of Section 119A deals with refusal to sign any statement made by him when required to do so by the Industrial Court and Sub-clause (3) deals with the procedure and empowers the Court for recording the facts of such omission as mentioned in Sub-section (1) and Sub-section (2) of Section 119A of the Act. It also clarifies that after recording the facts constituting the offence, the Court shall forward the case to the Magistrate having jurisdiction to try the same and may require security to be given for the appearance of the Accused. On the bare look to this proposition under Section 119A and compare it to the allegations against the Accused quoting certain instances, *prima facie*, it appears that none of the instances suit the situation. I will discuss this aspect elaborately on the subsequent phase referring to the orders passed by this Court from time to time. However, when the specific instance as quoted under Section 119A does not comprise the allegations as alleged in the application itself, then I switch over to Section 119 (B) to find out as to whether the other kind of contempt can cover the allegations of the Complainant.

8. Section 119 (B) Sub-section (1) deals with an Act of publishing or writing calculated to improperly influence the Industrial Court into a disrupt or contempt or to lower its or his authority..... Sub-section (2) says that in case of contempt, the Industrial Court shall record the facts and then report the matter to the High Court. Sub-section (3) deals with role of the Wage Board or Labour Court in case contempt and their making the report. Sub-section (4) deals with the role of the Hon'ble High Court. After receiving the report under Sub-section (2) of Section 119 (B).

9. Construing this proposition under which the application has been filed, now the actual orders which were issued by this Court need to be looked into. The order dated 4th May 2001 below Exh. UA-12 lays down as below,—

“The Applicant to prepare Agenda for General Body Meeting and notices be issued within the stipulated time and thereafter the report of the meeting be submitted to this Court on or before next date”.

It is contended that Agenda was not prepared within the stipulated time given under the Constitution. Besides, it is alleged that no notice regarding the change of Agenda is given to the members within the stipulated time required under the Constitution and thus, there is a contempt of the order. Pursuance to this fact, I have referred to the proceedings in Application (ICTU) No. 7 of 2000. The say filed alongwith Exh. U-30 filed by opponent No. 3 Smt. Balbir Ward indicates all the details about the activities being undertaken by the Association. The affidavit filed by her Exh. U-21 dated 16th June indicates that her filing detail report of the General Body Meeting of the members held on 10th January 2001. The said report is at Exh. U-12 which is inclusive of Agenda, It was circulated to the members alongwith notice dated 28th May 2001. The Complainant has not specified what is the exact time given in the Constitution. For preparing and circulating the Agenda. However, once this Court has passed the order on 4th May 2001 and circulation notice was on 28th May 2001. Therefore, the allegations that no Agenda was prepared etc. is falsified. Exh. U-31 is the affidavit of Smt. Balbir Ward dated 2nd November 2001. It is filed in response to the application filed by Shri Shelar dated 31st October 2001. She has pointed out that the activities of the earlier body which occupied the office unauthorisedly and a role of a new Executive body and of clearing loan incurred by the earlier body and of clearing the loan incurred by the earlier body accumulated a funds of

Rs. 1,62,64,000. All the funds are lying in safe custody with the Nationalised Bank and other financial institution Ex. U-30 is the response of Smt. Balbir Ward to the application filed by Shri Shelar by which all the allegations in the application were retaliated and has pointed out in para 9 regarding the smooth functioning and the work undertaken by the newly executive committee. At this juncture, whether the work done by the new executive committee was appropriate or not is not the question before me. The question raised is of Committing contempt of the order of the Court. The report made, therefore, was filed before the Court on 13th June 2001 *i.e.* within the 3 days from the date of meeting. The order passed by this Court on 4th May 2001 was of holding a Meeting and submitting a report which on the face of record appears to be complied.

10. Much hue and cry is made regarding the appointment of Shri S. V. Rajadhyaksha as Investigating Officer in the meeting. By virtue of the initial order of this Court, the Deputy Registrar, Trade Unions was appointed as observer. However, by an application, the name of the observer has been got changed. The situation in which it was incumbent on the Committee to get the observer changed has been explained in the application itself and, therefore, the Court by considering their situation and urgency in the matter, passed an order of changing the observer due to non-availability of Deputy Registrar, Trade Unions. The urgency was expressed as the time schedule of the meeting was already held and fixed and the process have started giving to come to attend the meeting. Had it been the case that in place of Deputy Registrar of Trade Unions would have been avoided to be observer or another observer would have been called without any order of this Court, then it would have been accepted that the order of the Court has been flouted. Admittedly, the order passed by this Court was at the residence during holidays. Therefore, mere that fact will not attract any illegality on the part of the Committee Members attracting the contempt of Court's order. In fact, the appointment of Shri S. V. Rajadhyaksha as an observer in the meeting was as per the order of the Court.

11. The order dated 11th May 2001 spells about the enrollment of new members. This Court has directed to follow the Constitution and clause Nos. 5 and 6 whereby the members should not be charged more than Rs. 501 as membership fee and collected the normal donation and also directed that the Registrar of Trade Union shall be observer while accepting the membership formation from the interested members and counter signatures on the same should be obtained. Application Exh. UA-13 dated 11th May 2001 was filed for staying the enrollment of new membership pending the General Body to be called. After considering the submissions of both the sides, this Court has observed in para 1 of the order that the illegality pointed out by Learned Advocate Shri Mandavia is that of against clause Nos. 5 and 6 of the Constitution. The clause No. 5 in the Constitution lays down that membership fees shall be Rs. 501. Instead of that the Applicant is accepting Rs. 20,000 or odd who are illegally being admitted. I fail to understand as to how such allegations are made without any support or any affidavit or a particular instance. Considering the order passed by this Court, no instance was being brought to the notice of the Court regarding the acceptance of Rs. 20,000 as membership fees till the disposal of Application (ICTU) No. 7 of 2001. The amount so collected is kept under Fixed Deposit and those Fixed Deposits were brought before the Court as per the order of this Court. Pursuance to this fact, while passing the order, this Court has already raised suspicion regarding the alleging of collecting Rs. 20,000 or more from the third person. Therefore, now that aspect cannot be agitated under this forum.

12. As per the direction in para 3 of the order, it was accepted to provide the addresses and names of those who are being admitted as members. No grievance can be made so far as that part is concerned. In para 5, it has been made clear that both the parties have accepted to appoint Deputy Registrar as observer while accepting the membership form who shall countersign on those forms. Learned Advocate Shri Mandavia has pointed out that nothing of such direction as given in para 5 of the order are being followed and, therefore, the contempt has been made of order of the Court. So far as compliances are concerned, the acceptance of the Association and the Applicant to give the names and addresses of the new entrants has been given to Shri Shelar informing him that the list should be collected from the office of the Association. The letter dated 6th June 2001 put up on record indicates about giving such intimation, Besides the same, the postal correspondence indicating the half hazard attempt of accepting/refusing the said correspondence and ultimately sending back the registered postal correspondence squarely indicates about the intention and attempt to these Respondents.

13. The directions for appointing the Deputy Registrar, Trade Unions as observer were given in the Application of Shri Shelar. Those directions were required to be served on the Deputy Registrar or atleast to intimate the Deputy Registrar about the same but no such attempt was made for service of the order on the Deputy Registrar of Trade Unions. Therefore, before passing the order by this Court, the process of receiving the application for admission to membership, as per the record, was already started and decisions were taken in the Managing Committee dated 29th April 2001. Therefore, on this record, it is clear that prior to passing the order dated 11th May 2001, the membership forms were already scrutinised and decisions were taken. It has been submitted by Learned Advocate Shri Talreja for the Accused that the membership forms were received much prior to 11th May 2001 *i.e.* before even much prior to 12th April 2001. The letter correspondence in between these Accused and the Deputy Registrar also indicates about the efforts made by these persons and, therefore, there appears intentional omission on the part of these Accused for not strictly remaining and here to the order of this Court.

14. So far as order dated 9th June 2001 is concerned, this Court has already observed about the change of observer this Court has pointed out that subject suggested should also be included. Therefore, I have referred to the report submitted *vide* Exh. O-8 and the original proceedings. Shri S. V. Rajadhyaksha who was observer of the said General Body has in his report para 2 has mentioned that "thereafter Mrs. Balbir Ward handed over the Xerox copy of the notice of the General Body Meeting dated 28th May 2001, including the subject at Sr. No. 13A of the Agenda suggested by Shelar about Shri Anil Rajput and Raju Dhanjal in view of the directions given in the order dated 9th June 2001". It is further mentioned in para 3 of his report that after initiating the meeting and excepting the subject of Sr. No. 1 and Sr. No. 13A, all the other Resolutions were passed. It appears from this record that the agitation are being made only on account of not passing the resolution accepting the subject proposed by Shri Shelar. Therefore, not accepting the subject suggested by Shri Shelar cannot form a part of contempt of the order of the Court. It will not be tantamount to the proceedings. In other words, flouting the order of this Court, does not reflect from the record itself.

15. Pursuance to the above instances, I have referred to the earlier order dated 9th June 2001. Admittedly in para 10, this Court has observed that the orders of this Court appear to have not been punctually followed. These words are specifically emphasised by learned Advocate Shri Mandavia. Therefore, in the matter like this, one has to assail on the entire substance of the order and intention of the Court while giving the rule. I, therefore, think it just to point out the subsequent part of the order which spells out as below :—

"In this situation, now it will be just for emphasising the presence of the Deputy Registrar, Trade Unions in the General Body and the meeting shall be held in his presence who shall observe the manner of conducting the General Body Meeting."

The order dated 9th June 2001 though indicates of the appointment of Registrar by an order Exh. U-11 on an application of the Committee Member, this Court was pleased to pass the order and change the name of observer for the reasons stated therein. In pursuance of this aspect, admittedly, Shri Shelar had no opportunity how the appointment of Shri S. V. Rajadhyaksha as observer was made. However, since the order is already passed and Shri Rajadhyaksha has conducted a meeting as an observer, such instance will not tilt towards the intention of committing any contempt of the order of the Court. It is true that Shri Rajadhyaksha might not have disclosed how his presence is there in the General Body Meeting. However, the question so far as contempt is concerned, such Act on the part of the Investigating Officer will not necessarily tilt towards the sense of committing contempt of the order of the Court as Shri Rajadhyaksha was there in the General Body Meeting in view of the order passed by this Court.

16. Learned Advocate Shri Mandavia has vehemently submitted that there is *prima facie* evidence against the Accused whereby one Shri Rajput Secretary who was elected was behind the bars having misappropriated the funds of the Association which was collected from the members. Besides, the elections were not held as per the directions of this Court. Therefore, functioning of the present body is illegal and the Accused cannot be let off when *prima facie* documents are produced *viz.* F.I.R. with the police etc. After going through the submissions of Learned Advocate Shri Mandavia, I have found that the contempt proceeding and the proceedings in the criminal Court are altogether different. Admittedly, when F. I. R. is filed, then and, therefore, the police machinery shall take proper recourse. This Court in that regard need not make any comment.

17. In the overall discussion, it has also been vehemently submitted that the contempt proceeding cannot be affected member because the main Application (ICTU) No. 7 of 2000 has been withdrawn. It is pointed out that whatever averment advanced in the application for committing contempt of the part are prior to the said withdrawal of the application. Therefore, the Court has to deal with those instances. I do agree with the views of the Learned Advocate Shri Mandavia. However, while concentrating his submission, each point pointed out by Learned Advocate Shri Mandavia has been taken for consideration and found that no material is placed out *prima facie* to hold that there is contempt committed with and hands of the existing Committee Members. The irregularity as from record will not necessarily reflect as an intentional Act of committing contempt to the order of the Court. The procedural irregularity can always be subject to correction. Therefore, the solitary Act of such irregularity may not attract any penal action.

18. Learned Advocate Shri Mandavia has relied on observation in a case of *Tayabhai Bagarsarwalla and Ors. V/s. Hind Rubber Industries Pvt. Ltd., AIR 1997 SUPREME COURT, 1240* and substantiated his contention that even though the main application has been disposed of, the question of committing breach will have to be taken into consideration. Hon'ble Their Lordships have considered the disobedience of the order of the Court within the meaning of Order 39 Rule 2A of the Civil Procedure Code wherein the order of the Court was flouted and disobeyed. The question of jurisdiction of the Court, therefore, has been ruled by Hon'ble Their Lordship and having careful abidance with the same and, therefore, I have considered the submission of Learned Advocate Shri Mandavia referring to the para 16 of the judgment of Hon'ble Their Lordships.

19. Pursuance to this aspect and while looking into the allegations when no intentional Act appears barring the procedural defect, I do not intend to initiate any contempt proceeding. In a case of *Chhoturam V/s. Urvashi Gulati, 2001-AIR-SCW-3208. Mritunjay Das V/s. Sayyad Hosibur Rehman, 2001-AIR-SCW-1162* the rule laid down by the Honourable Apex Court is that,—

“mere disobedience of an order may not be sufficient to amount to suffer contempt within the meaning of Section 2(b) to the Act of 1971. The ailment or willingness is indispensable requirement to bring home charge within the meaning of the Act. In the event, 2 interpretations are possible and the action of the alleged contempnor pertains to one such interpretation. The Act of Acts cannot be ascribe to be otherwise in nature. A doubt in the matter as regard the willful nature of the conduct is raised, the question of success in a contempt petition would not arise”.

While referring to these observations, I have already observed that the procedural irregularity does not amount to intentional Act of the parties for flouting the order of the Court. The essential ingredients of the civil contempt is wilful disobedience and not in an every disobedience, due to various reasons. That disobedience was wilful has to be proved, the expression connotes purposeful and clear intention to flout. Pursuance to this legal proposition, I have found no purposeful Act on the part of the Accused Contempnor and, therefore, I have given my finding to the point in the negative and pass the following order :—

Order

The application is hereby dismissed.

Parties to bear their own costs.

Mumbai,
Dated the 2nd May 2003.

P. B. SAWANT,
Member,
Industrial Court, Mumbai.

K. G. SATHE,
Registrar,
Industrial Court, Mumbai.
Dated the 4th June 2003.

पुढील अधिसूचना इत्यादी असाधारण राजपत्र म्हणून त्यांच्यासमोर दर्शविलेल्या दिनांकांना प्रसिद्ध झाल्या आहेत :—

११३

बुधवार, ऑक्टोबर ९, २०१३/आश्विन १७, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,
मुंबई ४०० ०३२, दिनांक ९ ऑक्टोबर २०१३.

अधिसूचना

महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८.

क्रमांक बीएसई. ०७/२०१०/प्र.क्र. २२५/कामगार-१०.—महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८ (१९४८ चा मुंबई एकोणऐंशी) (यात यापुढे ज्याचा “ उक्त अधिनियम ” असा उल्लेख करण्यात आलेला आहे.) याच्या कलम ४ च्या परंतुकाद्वारे प्रदान करण्यात आलेल्या अधिकारांचा वापर करून, महाराष्ट्र शासन याद्वारे, उक्त अधिनियमाच्या अनुसूची दोन मध्ये खालीलप्रमाणे सुधारणा करित आहे :—

उक्त अधिनियमाच्या अनुसूची दोन मधील क्रमांक “ ६२६ ” नंतर खालील नोंदीचा समावेश करण्यात येईल :—

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| <p>“ ६२७ मे. फ्युचरव्हॅल्यु रिटेल लि. (बिग बाझार), नॉलेज हाऊस, श्यामनगर, जे. व्ही. रोडसमोर, जोगेश्वरी (पूर्व), मुंबई ४०० ०६०.</p> <p>(१) फुड राईट, बॉम्बे जिमखाना लि., एम. जी. रोड, फोर्ट, मुंबई ४०० ००१.</p> <p>(२) फुड कोर्ट, निलकमल रियलटोर अँड बिल्डर्स प्रा. लि., २६५, बेलासिस रोड, बलवास हॉटेल, मुंबई सेंट्रल, मुंबई ४०० ००८.</p> <p>(३) बिग बाझार, फाऊंटेन स्क्वेअर मॉल, सेक्टर नं. ७, खारघर, नवी मुंबई ४१० २१०.</p> <p>(४) फुड बाझार, दि हब, निरलॉन कंपाऊंड, वेस्टर्न एक्सप्रेस हायवे, गोरेगाव (पू.), मुंबई ४०० ०६९.</p> | <p>उक्त अधिनियमाची कलमे ११, १४, १८ व कलम ३३(३) मधून खालील शर्तीच्या अधीन राहून :—</p> <p>(१) सदर सूट ही शासन राजपत्रात अधिसूचना प्रसिद्ध झाल्याच्या दिनांकापासून तीन वर्षांच्या कालावधीकरिता लागू राहील.</p> <p>(२) आस्थापना कोणत्याही दिवशी रात्री ११-३० वा. नंतर उघडी राहणार नाही.</p> <p>(३) प्रत्येक कर्मचाऱ्यास त्याच्या वेतनातून कुठल्याही प्रकारची कपात न करता आठवड्यातून एक दिवस भरपगारी सुट्टी देण्यात यावी व सुट्टीसंबंधीचे प्रत्येक महिन्याचे वेळापत्रक सूचनाफलकावर आगाऊ लावण्यात यावे.</p> <p>(४) कर्मचाऱ्यास दररोज ९ तास किंवा आठवड्यामध्ये ४८ तासांपेक्षा जास्त काम करणे आवश्यक असणार नाही व दररोजच्या कामाची व्याप्ती ११ तासांपेक्षा जास्त असणार नाही.</p> <p>(५) प्रत्येक कर्मचाऱ्यास सलग पाच तास काम केल्यावर एक तासाची विश्रांती देण्यात यावी.</p> <p>(६) कोणत्याही कर्मचाऱ्यास त्याच्या अतिकालिक कामाबद्दल कलम ६३ मध्ये विहित केलेल्या दराने अधिक वेतन देण्यात यावे.</p> |
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- (५) बिग बाझार, एस. नं. ४७८१, बाबासाहेब परांजपे मार्ग, लातूर ४१३ ५१२.
- (६) फॅशन @ बिग बाझार, घोरपडी, कोरेगाव पार्क, पुणे ४११ ००१.
- (७) बिग बाझार, पुनम सिटी प्लस, प्लॉट नं. १६७, पूर्व नागपूर, वर्धमान, नागपूर ४४० ००८.
- (८) बिग बाझार, महावीर पार्क, सर्व्हे नं. ६८८, बिबेवाडी, सातारा रोड, पुणे ४११ ०१३.
- (९) बिग बाझार, ओस्तवाल एम्पायर, सर्व्हे नं. १११/ए-२, १११-ए/१/१, व्हिलेज ग्राम पंचायत, बोईसर, तारापूर ४०१ ५०६.
- (१०) बिग बाझार, कोल्हापूर ऑटो वर्क्स, सीएस नं. १२४३/६१, ६४/६४-ए, शिवाजी उद्यम नगर, कोल्हापूर ४१६ ००८.
- (११) बिग बाझार, एम. स्क्वेअर, सर्व्हे नं. १०, सीटीएस नं. १५१८४/३, आकाशवाणी चौक, जालना रोड, औरंगाबाद ४३१ ००१.
- (१२) बिग बाझार, हर्म्स वेव्हज, कल्याणी नगर, बाबा कल्याणी बंगल्यासमोर, येरवडा, पुणे ४११ ००६.
- (१३) बिग बाझार, प्लॉट नं. सीसी ३ ऑफ एस. नं. २०/२, अँडजॉईनिंग, सिटी प्राईड मल्टिप्लेक्स, कोथरूड, पुणे ४११ ०३८.
- (१४) बिग बाझार, प्लॉट नं. १०२/२/१ + २, सारडा मिल सवेडी, अहमदनगर-मनमाड महामार्ग, अहमदनगर ४१४ ००३.
- (१५) बिग बाझार, बीबी, मंत्री चांडक आर्केड, सिटी सर्व्हे नं. २०३, सातरस्ता चौक, सोलापूर ४१२ ००१.
- (१६) बिग बाझार, २५२-ए, दत्तानी व्हिलेज, भाबोला पापडी रोड, संदूर टेलिफोन एक्सचेंजजवळ, वसई ४०१ २०१.
- (१७) फॅशन @ बिग बाझार, नेपच्युन मॅगनेट मॉल, एलबीएस रोड, भांडूप (प.), मुंबई ४०० ०७८.
- (७) महिला कर्मचाऱ्यांसाठी स्वतंत्र लॉकर व विश्रांतीगृह यांची व्यवस्था करण्यात यावी.
- (८) कर्मचाऱ्यांना राष्ट्रीय व सणाच्या सुट्ट्या देण्यात याव्यात.
- (९) महिला कर्मचाऱ्यांसाठी रात्री त्यांच्या कामाची वेळ संपल्यानंतर आस्थापनेपासून निवासस्थानापर्यंत सुरक्षारक्षकासह मोफत वाहतुकीची व्यवस्था करण्यात यावी.
- (१०) सदर सूट ही मुंबई दुकाने व आस्थापना अधिनियम, १९४८ पुरतीच मर्यादित आहे.
- (११) वरील अटी व शर्तीव्यतिरिक्त अधिनियमातील इतर तरतुदी आस्थापनेस यथास्थिती लागू राहतील.
- (१२) वरीलपैकी कोणत्याही अटीचा व शर्तीचा भंग झाल्यास सूट आपोआप रद्द होईल. ”

- (१८) बिग बाझार, प्लॉट नं. सी/३,
एमआयडीसी पीएच-II, डोंबिवली
इंडस्ट्रियल एरिया, मानपाडा रोड,
व्हिलेज सागाव, ठाणे ४२१ २०१.
- (१९) बिग बाझार, कंदपिले मॉल,
रेल्वे स्टेशन रोड, जुना पनवेल,
पनवेल ४१० २०६.
- (२०) बिग बाझार, पार्ले स्क्वेअर,
मोंगीबाई रोड, दिनानाथ मंगेशकर
नाट्यगृहाजवळ, विलेपार्ले (पू.),
मुंबई ४०० ०५७.
- (२१) लुटमार्ट, मॅक्सस मॉल, टेंभी हॉस्पिटल
रोडजवळ, भाईंदर (प.),
ठाणे ४०१ १०१.
- (२२) बिग बाझार, सिटी सेंटर नाशिक,
पीडब्ल्यूडी ऑफीसजवळ,
लवाटे नगर, नाशिक ४२२ ००२.
- (२३) बिग बाझार, अर्बन स्पेस, प्लॉट नं. २,
सर्व्हे नं. १८-बी, देवळाली,
नाशिक ४२२ १०१.
- (२४) फॅशन @ बिग बाझार, निर्मल
लाईफस्टाईल, एल.बी.एस. मार्ग,
मुलुंड (प.), मुंबई ४०० ०८०.
- (२५) बिग बाझार, लँड मार्क, वर्धा रोड,
रामदासपेठ, पंचशील स्क्वेअरजवळ,
नागपूर ४४० ०१०.
- (२६) बिग बाझार, दि झोन, कॉलेज रोड,
नाशिक ४२२ ००५.
- (२७) बिग बाझार, फन एन स्टॉप, फातिमा
नगर, वानोरी, पुणे ४०० ७०३.
- (२८) बिग बाझार, प्रिमिअर प्लाझा, तळमजला,
आयसीआयसी बँकेजवळ, चिंचवड गाव
, पुणे ४११ ०१९.
- (२९) बिग बाझार, मेगा मॉल, इंटरसेक्शन ऑफ
९०-ए, डी. पी. रोड, मालाड लिंक रोड,
ओशिवरा, अंधेरी (प.),
मुंबई ४०० ०८०.
- (३०) बिग बाझार, मेट्रो जंक्शन,
द्वारा-हार्ड कॅस्टल अँड वॉड (प्रा.) लि.,
नेतिवली व्हिलेज, कल्याण-शील,
ठाणे ४२१ ३०१.

- (३१) फॅशन @ बिग बाझार, ठाकूर शॉपिंग मॉल अँड मल्टिप्लेक्स, लायन पेन्सिलजवळ, दहिसर चेकनाका, पोस्ट मिरा, ठाणे ४०१ १०४.
- (३२) बिग बाझार, फिनिक्स रिटेल बिझनेस सेंटर, फिनिक्स हाय स्ट्रीट, ४६२, सेनापती बापट मार्ग, मुंबई ४०० ०१३.
- (३३) बिग बाझार, द्वारा—रुणवाल आर्केड, रिचर्डसन फॅक्टरी, एल.बी.एस. मार्ग, मुलुंड चेकनाक्याजवळ, मुलुंड, मुंबई ४०० ०८०.
- (३४) बिग बाझार, सर्व्हे नं. १२८-बी, १२९/२, लेक सिटी, माजिवडे व्हिलेज, कापुरबावडी नाका, ठाणे ४०० ६०६.
- (३५) बिग बाझार, ग्रोवेल १०१, आकुर्ली रोड, कांदिवली (पू.), मुंबई ४०० १०१.
- (३६) बिग बाझार, रघुलिला मॉल, फेज १, सेक्टर ३८, प्लॉट नं. ३४/३५/३८, वाशी रेल्वे स्टेशनसमोर, नवी मुंबई ४०० ७०३.
- (३७) फुड बाझार, प्लॉट नं. १५२, सर्व्हे नं. १०५४, टिंबरनाका, नाशिक ४२२ ००१.
- (३८) फुड बाझार, असॅट मॉल, गणेश खिंड रोड, ई-स्क्वेअरजवळ, अग्रिकल्चर कॉलेजजवळ, पुणे ४११ ००७.
- (३९) फुड बाझार, ओबेरॉय मॉल, बिझनेस पार्क, ओबेरॉय गार्डन सिटी, वेस्टर्न एक्सप्रेस हायवे, गोरेगाव (पू.), मुंबई ४०० ०६३.
- (४०) बिग बाझार, फॉर्च्युन प्लाझा, गेट नं. ६५०-बी, सांगली रोड, इचलकरंजी ४१६ ११५.
- (४१) फुड बाझार, इटरनिटी मॉल, व्हेरायटी स्क्वेअर, सिताबर्डी, नागपूर ४४० ०१२.
- (४२) फुड बाझार, इन्फोसिस टेक लि., प्लॉट नं. १, राजीव गांधी इन्फोटेक पार्क, हिंजेवाडी, ता. मुळशी, पुणे ४११ ०५७.
- (४३) फुड बाझार, ईशान्य मॉल, महाराष्ट्र हाऊसिंग बोर्डाजवळ, विमाननगर, पुणे ४११ ०१४.

- (४४) बिग बाझार, अमर आर्मा जेनेसिस,
डॉमिनो पिइझासमोर, बानेर,
पुणे ४११ ०४५.
- (४५) फुड बाझार, के स्टार मॉल,
ट्रॉम्बे-सायन रोड, चेंबूर,
मुंबई ४०० ०७१.
- (४६) फुड बाझार, इनफिनिटी, लिंक रोड,
अंधेरी (प.), मुंबई ४०० ०५३.
- (४७) बिग बाझार, फाऊंटन स्क्वेअर,
प्लॉट नं. ५, सेक्टर नं. ७, खारघर,
नवी मुंबई ४१० २१०.
- (४८) फुड बाझार, होम टाऊन, २४७ पार्क,
हिकन हाऊस, एल.बी.एस. मार्ग,
विक्रोळी (प.), मुंबई ४०० ०८३.
- (४९) फुड बाझार, १६०/१, टेम्पल रोड,
सिक्कील लाईन, सायन्स कॉलेज
ग्राऊंडसमोर, नागपूर ४४० ००१.
- (५०) बिग बाझार, इलाईट मॉल, गोपाळ नगर,
स्क्वेअर, बडनेरा रोड, अमरावती
४४४ ६०५.
- (५१) बिग बाझार, खानदेश सेंट्रल,
नेहरू चौक, एम.जी. रोड,
जळगाव ४२५ ००१.
- (५२) फॅशन @ बिग बाझार, प्रोजोन मॉल,
एमआयडीसी, औरंगाबाद ४३१ ००१.
- (५३) बिग बाझार, शॉपर्स ऑर्बिट,
सर्व्हे नं. ४४, धानोरी, आळंदी रोड,
विश्रांतवाडी, पुणे ४११ ०१५.
- (५४) बिग बाझार, टाऊन सेंटर, अमनोरा पार्क
टाऊन, एसआर नं. १८१, व्हिलेज
साडेसतरा नळी,
हडपसर, पुणे ४११ ०२८.
- (५५) बिग बाझार, फनसिटी, प्लॉट नं. ९३,
सेक्टर ६ए, कल्याण-अंबरनाथ रोड,
उल्हासनगर ४२१ ००३.
- (५६) फुड बाझार, एमएसएम परांजपे मॉल,
कर्वे रोडसमोर, एमईएस कॉलेज-
समोर, पुणे ४११ ००४.
- (५७) फुड बाझार, पुनम मॉल, व्हीआयपी
रोड, खसरा नं. ९१, नॉर्थ अंबाझरी रोड,
नागपूर ४४० ००२.

- (५८) फुड बाझार, सोबो सेंट्रल क्रॉस रोड,
एम.एम.मालवीय मार्ग, ताडदेव,
मुंबई ४०० ०१५.
- (५९) फुड हॉल, पॅलाडियम मॉल, फिनिक्स
मॉल कंपाऊंड, सेनापती बापट मार्ग,
लोअर परेल, मुंबई ४०० ०१६.
- (६०) फुड बाझार, ओडेऑन मॉल,
१९४, वल्लभ बाग, घाटकोपर (पू.),
मुंबई ४०० ०७७.
- (६१) फुड बाझार, आयसीसी टेक पार्क,
प्लॉट नं. ४०३, सेनापती बापट मार्ग,
पुणे ४११ ०१६.
- (६२) बिग बाझार, मॅक्सस मॉल, के. पी.
कंपाऊंड, जरीमरी, अंधेरी-कुर्ला रोड,
कुर्ला (प.), मुंबई ४०० ०७२.
- (६३) बिग बाझार, इंप्रेस सिटी, गांधीसागर
लेकजवळ, रेल्वे स्टेशन रोड, रिवॉर्ड
रियल इस्टेट, नागपूर ४४० ०१८.
- (६४) बिग बाझार, निर्मल लाईफस्टाईल
मॉल, एल.बी.एस. मार्ग,
निर्मलनगरसमोर, मुलुंड (प.),
मुंबई ४०० ०८०.
- (६५) फॅशन @ बिग बाझार, के स्टार मॉल,
ट्रॉम्बे-सायन रोड, चेंबूर,
मुंबई ४०० ०७१.
- (६६) बिग बाझार, रुनवाल टाऊन सेंटर,
वेल्थ लॅक्स, एल.बी.एस. मार्ग,
प्रझेडशियल टॉवरसमोर, घाटकोपर,
मुंबई ४०० ०८६.
- (६७) बिग बाझार, मॅक्सस मॉल,
टेंबा हॉस्पिटल रोड, सलासर हाऊसिंग
संकुलजवळ, भाईंदर (प.),
ठाणे ४०१ १०५.
- (६८) फॅशन @ बिग बाझार, इनफिनिटी
मॉल, इनऑर्बिट मॉलच्या पुढे,
मालाड लिंक रोड, मालाड (प.),
मुंबई ४०० ०५३.
- (६९) फॅशन @ बिग बाझार, रुनवाल टाऊन
सेंटर, वेल्थ लॅक्स, एल.बी.एस. मार्ग,
प्रझेडशियल टॉवरसमोर,
घाटकोपर (प), मुंबई ४०० ०८६.

- (७०) बिग बाझार, ईशान्य मॉल, विमान नगर,
महाराष्ट्र हाऊसिंग बोर्डजवळ,
पुणे ४११ ०१४.
- (७१) फॅशन @ बिग बाझार, तळमजला,
ऑर्चिड सिटी सेंटर, २६५, बेलासिस
रोड, बलवास हॉटेलच्यापुढे,
मुंबई ४०० ००८.
- (७२) फुड बाझार, तळमजला, ऑर्चिड सिटी
सेंटर, २६५, बेलासिस रोड, बलवास
हॉटेलच्यापुढे,
मुंबई ४०० ००८.
- (७३) फुड बाझार, फिनिक्स मार्केट सिटी
मिल, बेकर गौजमागे, टायको
इलेक्ट्रॉनिक्सच्या पुढे, विमान नगर, नगर
रोड, पुणे ४११ ०१४.
- (७४) बिग बाझार, निर्मल लाईफ स्टाईल
मॉल, निर्मलनगर, एल.बी.एस. रोड,
मुलुंड (प.), मुंबई ४०० ०८०.
- (७५) बिग बाझार डायरेक्ट, प्लॉट १६०/१,
गुप्ता टॉवर, ३रा मजला, टेंपल रोड,
सायन्स संस्थेच्या प्लेग्राऊंडसमोर,
सिक्कील लाईन, नागपूर ४४० ००१.
- (७६) के बी फेअर प्राईस, शॉप नं. ४, ५,
साईकृपा निवास, वायशेतपाडा नं. १,
कुरार व्हिलेज, वेस्टर्न एक्सप्रेस
हायवेसमोर, मालाड (पू.), मुंबई.
- (७७) के बी फेअर प्राईस, शॉप नं. १, २, ३,
रॉयल गार्डन, एस. व्ही. रोड,
जोगेश्वरी (प.), मुंबई.
- (७८) के बी फेअर प्राईस, शॉप नं. १०, धिरज
कावेरी, चिंचोलीसमोर, मुंबई.
- (७९) के बी फेअर प्राईस, स्विटी लँड
बिल्डिंग, आशा नगर, ठाकूर संकुल,
मुंबई.
- (८०) के बी फेअर प्राईस, शॉप नं. ७, ९,
गुडविल आर्केड, सेक्टर १०,
नेरुळ (प.), नवी मुंबई.
- (८१) के बी फेअर प्राईस, शॉप नं. ९, १०,
११, गोयल प्लाझा, बोरीवली (पू.),
मुंबई.

- (८२) के बी फेअर प्राईस, शॉप नं. १२,
१४, जंगल मंगल रोड, पोलीस
स्टेशनमागे, भांडूप, मुंबई.
- (८३) के बी फेअर प्राईस, शॉप नं. १, २,
३, ४, सीवुड शांती पार्क, सेक्टर,
नेरुळ, नवी मुंबई.
- (८४) के बी फेअर प्राईस, शॉप नं. ४, ५,
६, भानुकांत संकुल, आरे जंक्शन,
गोरेगाव (पू.), मुंबई.
- (८५) के बी फेअर प्राईस, भुमीराज मनोर,
प्लॉट नं. ३, सेक्टर, सानपाडा,
नवी मुंबई.
- (८६) के बी फेअर प्राईस, शॉप नं. १,
पद्मावती अपार्टमेंट ११०-११२, टी.एच.
कटारिया मार्ग, माटुंगा (प.), मुंबई.
- (८७) के बी फेअर प्राईस, कार केअर
सेंटर, ४३, नेपियन्सी रोड, मुंबई.
- (८८) के बी फेअर प्राईस, ऑटो केअर सेंटर,
३/४, जंक्शन ऑफ एस. व्ही. रोड
व टर्नर रोड, बांद्रा (प.), मुंबई.
- (८९) के बी फेअर प्राईस, शॉप नं. ७ व ८,
डी-विंग, चारकोप केसर सीएचएस लि.,
प्लॉट नं. २३९, आरडीपी-६, म्हाडा
लेआऊट, चारकोप, कांदिवली (प.),
मुंबई.
- (९०) के बी फेअर प्राईस, शॉप नं. ९ व
१०, धनलक्ष्मी सीएचएस लि., शबरी
हॉटेल समोर, विद्यानिकेतन रोड,
एम. जी. रोडसमोर, गोरेगाव (प.),
मुंबई.
- (९१) के बी फेअर प्राईस, शॉप नं. २१, २२,
पाटीदार कॉम्प्लेक्स, कन्नमवार नगर-
२, विक्रोळी (पू.), मुंबई.
- (९२) के बी फेअर प्राईस, शॉप नं. २,
गुलमोहर बिल्डिंग, प्लॉवर व्हॅली,
बिल्वा कॉलेज रोड, खडकपाडा,
कल्याण (प.).
- (९३) के बी फेअर प्राईस, २६, कापड
बाझार मार्केट, माहीम, मुंबई.
- (९४) के बी फेअर प्राईस, प्लॉट नं. १४४,
भगत कनवार रोड, कोपरी,
ठाणे (पू.).

- (९५) के बी फेअर प्राईस, शॉप नं. ४, ५,
६, शिव सदन बिल्डिंग, तीसगाव,
कल्याण.
- (९६) के बी फेअर प्राईस, शॉप नं. २, ३,
४, रुक्मिणी सीएचएस, प्लॉट नं.
३६, डी.पी. १, सेक्टर २, चारकोप,
कांदीवली (प.), मुंबई.
- (९७) के बी फेअर प्राईस, शॉप नं. १६,
१७, यमुना बिल्डिंग, जंगीद
कॉम्प्लेक्स, मीरा रोड (पू.).
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फातिमा महल, नरेंद्र पार्क समोर,
नयानगर, मीरा रोड (पू.).
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लि. नं. २, योगीनगर, बोरीवली (प.),
मुंबई.
- (१००) के बी फेअर प्राईस, शॉप नं. १,
नवदीप सीएचएस लि., नवघर फाटक
रोड, गोडदेव नाक्याजवळ,
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- (१०१) के बी फेअर प्राईस, श्री कॉम्प्लेक्स,
शॉप नं. १४-१५, प्लॉट नं. १०६-
११२, सेक्टर १४, कामोठे,
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- (१०२) के बी फेअर प्राईस, शॉप नं. २ व ३,
फोर फ्लायट सीएचएस लि., आडीपी
८, प्लॉट नं. २४१, सेक्टर ४,
चारकोप, कांदीवली (प.), मुंबई.
- (१०३) के बी फेअर प्राईस, शॉप नं. ३,
सुनिल निवास, घनश्याम गुप्ते रोड,
टिळक चौक, डोंबिवली (प.).
- (१०४) के बी फेअर प्राईस, शॉप नं. ७,
ठाकूर चाळ, रेल्वे स्टेशनसमोर,
बंदरवाडी, भाईंदर (पू.).
- (१०५) के बी फेअर प्राईस, शॉप नं. ६ व ७,
तळमजला, माधव सृष्टी, सी-०६
विंग, गोदरेज हिल रोड, बारावे
व्हिलेज, कल्याण (प.).
- (१०६) के बी फेअर प्राईस, शॉप नं. १ व २,
टुलिप गार्डन, सेंट्रल पार्क,
नालासोपारा (पू.), ठाणे.

- (१०७) के बी फेअर प्राईस, शॉप नं. २,
साई सागर, अचोले रोड,
नालासोपारा (पू.) ४०१ २०९.
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शिवम शॉपिंग सेंटर, रेल्वे स्टेशनजवळ,
नालासोपारा (प.), ठाणे.
- (१०९) के बी फेअर प्राईस, शॉप नं. १ व २,
ए-विंग, प्लॉट नं. ४५४, चुनाभट्टी,
मुंबई ४०० ०२०.
- (११०) के बी फेअर प्राईस, एल-१, एल-२,
नशेमन कॉलनी, एमटीएनएल टेलिफोन
एक्सचेंजसमोर, मुंब्रा-कौसा रोड,
ठाणे ४०० ६१२.
- (१११) के बी फेअर प्राईस, शॉप नं. १, जीएफ
सेवा समिती सीएचएस, प्लॉट ३६८,
कॉ. हरबंशलाल मार्ग, जीटीबी नगर,
मुंबई ४०० ०३७.
- (११२) के बी फेअर प्राईस, शॉप नं. १,
तळमजला, एफ टाईप बिल्डिंग, शॉपिंग
सेंटर, सेक्टर-६, वाशी,
नवी मुंबई ४०० ७०३.
- (११३) के बी फेअर प्राईस, शॉप नं. १, २ व
४, तळमजला, गजबंधन अपार्टमेंट,
गोग्रासवाडी, बस स्टॅंडसमोर,
डोंबिवली (पू.), ठाणे ४२० ४०१.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

अ. म. बाविस्कर,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. BSE. 07/2010/CR 225/LAB-10, dated the 9th October 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

BALASAHEB KOLASE,
Joint Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 9th October 2013

NOTIFICATION

MAHARASHTRA SHOPS AND ESTABLISHMENT ACT, 1948.

No. BSE. 07/2010/CR 225/LAB-10.—In exercise of the powers conferred by the proviso to Section 4 of the Maharashtra Shops and Establishment Act, 1948 (Bom. LXXIX of 1948) hereinafter referred to as the said Act the Government of Maharashtra hereby amends Schedule II of the said Act as follows, namely :—

In Schedule II of the said Act, after entry “626” the following Entry shall be added, namely :—

- | | |
|--|---|
| <p>“627 M/s. Future Value Retail Ltd., (Big Bazar), Knowledge House, Shyam Nagar, Off. J. V. Road, Jogeshwari (E.), Mumbai 400 060.</p> <p>(1) Food Right, Bombay Ghymkhana Ltd., M. G. Road, Fort, Mumbai 400 001.</p> <p>(2) Food Court, Neelkamal Realtore and Builders P. Ltd., 265, Bellasis Road, Balwas Hotel, Mumbai Central, Mumbai 400 008.</p> <p>(3) Big Bazaar, Fountain Square Mall, Sector No. 7, Kharghar, Navi Mumbai 410 210.</p> <p>(4) Food Bazaar, The Hub, Nirlon Compound, Western Express Highway, Goregaon (E.), Mumbai 400 069.</p> <p>(5) Big Bazaar, S. No. 4781, Babasaheb Paranjape Marg, Latur 413 512.</p> <p>(6) Fashion @ Big Bazaar, Ghorpadi, Koregaon Park, Pune 411 001.</p> | <p>Section 11, 14, 18 and 33(3) subject to the following condition :—</p> <p>(1) This exemption shall remain in operation for the period of three years from the date of notification published in <i>Government Gazette</i>.</p> <p>(2) The establishment shall not remain open after 11-30 pm. on any day.</p> <p>(3) Every employee shall be given one day holiday in a week without making any deductions from his/her wages on account thereof and list of the time table of such holidays for a month shall be placed on the notice board in advance.</p> <p>(4) No employee shall be required to work for more than 9 hours in a day or 48 hours in a week. The spread over of an employee shall not exceed 11 hours in a day.</p> <p>(5) Every employee shall be given a rest period of one hour after 5 hours of continuous work.</p> <p>(6) The employees shall be entitled to overtime wages in accordance with Section 63 of the said Act.</p> <p>(7) Female employees shall be provided separate lockers and rest rooms at the work place.</p> <p>(8) Employees shall be given national and festival holidays.</p> |
|--|---|

- (7) Big Bazaar, Poonam's City
Pulse, Plot No. 167,
East Nagpur, Wardhman,
Nagpur 440 008.
- (8) Big Bazaar, Mahavir Park,
Survey No. 688, Bibewadi,
Satara Road, Pune 411 013.
- (9) Big Bazaar, Ostwal Empire,
Survey No. 111/A-2, 111A/1/1,
Village Gram Panchayat,
Boiser, Tarapur 401 506.
- (10) Big Bazaar, Kolhapur Auto
Works, CS No. 1243/61, to
64/64A, Shivaji Udyamnagar,
Kolhapur 416 008.
- (11) Big Bazaar, M-Square,
Survey No. 10,
CTS No. 15184/3, Akashwani
Chowk, Jalna Road,
Aurangabad 431 001.
- (12) Big Bazaar, Hermes Waves,
Kalyani Nagar, Opp. Baba
Kalyani's Bungalow, Yerwada,
Pune 411 006.
- (13) Big Bazaar, Plot No. CC3 of
S. No. 20/2, Adjoining, City
Pride Multiplex, Kothrud,
Pune 411 038.
- (14) Big Bazaar, Plot No. 102/2/
1+2, Sarda Mill Sawedi,
Ahmednagar-Manmad High-
way, Ahmednagar 414 003.
- (15) Big Bazaar, BB, Mantri
Chandak Arcade, City Survey
No. 203, Saat Rasta Chowk,
Solapur 413 001.
- (16) Big Bazaar, 252 A, Dattani
Village, Bhabola Papdi Road,
Near Telephone Exchange
Sandoor, Vasai 401 201.
- (17) Fashion @ Big Bazaar,
Neptune Magnet Mall,
L.B.S. Road, Bhandup (W.),
Mumbai 400 078.
- (18) Big Bazaar, Plot No. C/3,
MIDC Ph. II, Dombivali Ind.
Area, Manpada Road, Village
Sagaon, Thane 421 201.
- (19) Big Bazaar, Kandpile Mall,
Railway Station Road, Old
Panvel, Panvel 410 206.

- (20) Big Bazaar, Parle Square,
Mongibai Road,
Near Dinanath Mangeshkar
Natyagruha, Vile Parle (E.),
Mumbai 400 057.
- (21) Lootmart, Maxus Mall,
Near Tembi Hospital Road,
Bhayandar (W.),
Thane 401 101.
- (22) Big Bazaar, Big Bazaar City
Centre Nashik, Near PWD
Office, Lawate Nagar,
Nashik 422 002.
- (23) Big Bazaar, Big Bazaar,
Urban Space, Plot No. 2,
Survey No. 18-B, Deolali,
Nashik 422 101.
- (24) Fashion @ Big Bazaar, Nirmal
Lifestyle,
LBS Marg, Mulund (W.),
Mumbai 400 080.
- (25) Big Bazaar, Land Mark,
Wardha Road, Ramdas Peth,
Near Panchsheel Square,
Nagpur 440 010.
- (26) Big Bazaar, The Zone,
College Road, Nasik 422 005.
- (27) Big Bazaar, Fun-N-Stop,
Fatima Nagar, Wanorie, Pune
411 703.
- (28) Big Bazaar, Premier Plaza,
Ground Floor, Near ICICI
Bank, Chinchwad Gaon, Pune
411 019.
- (29) Big Bazaar, Mega Mall,
Intersection of 90th D P Road,
Malad Link Road, Oshiwara,
Andheri (W.), Mumbai 400 080.
- (30) Big Bazaar, Metro Junction,
C/o. Hard Castle and Waud
(P.) Ltd., Netivali Village,
Kalyan Shil, Thane 421 301.
- (31) Fashion @ Big Bazaar,
Thakur Shopping Mall and
Multiplex, Near Lion Pencil,
Dahisar Check Naka,
Post Mira, Thane 401 104.

- (32) Big Bazaar, Phoenix Retail
Business Centre, Phoenix
High Street, 462, Senapati
Bapat Marg, Mumbai 400 013.
- (33) Big Bazaar, C/o. Runwal
Arcade, Opp. Richardson
Factory, LBS Marg,
Near Mulund Check Naka,
Mulund, Mumbai 400 080.
- (34) Big Bazaar, Survey No. 128B,
129/2, Lake City, Village
Majivade, Kapurbavdi Naka,
Thane 400 606.
- (35) Big Bazaar, Growel 101,
Akurli Road, Kandivali (E.),
Mumbai 400 101.
- (36) Big Bazaar, Raghuleela Mall,
Phase I, Sector-38,
Plot No. 34/35/38,
Opp. Vashi Railway Station,
Navi Mumbai 400 703.
- (37) Food Bazaar, Plot No. 152,
Survey No. 1054, Trimbak
Naka, Nashik 422 001.
- (38) Food Bazaar, Ascent Mall,
Ganesh Khind Road,
Near E-Squire, Opposite
Agriculture Collage,
Pune 411 007.
- (39) Food Bazaar, Oberoi Mall,
Int. Business Park,
Oberoi Garden City,
Off. W.E. Highway,
Goregaon (E.),
Mumbai 400 063.
- (40) Big Bazaar, Big Bazaar,
Fortune Plaza,
Gate No. 650/B, Sangli Road,
Ichalkaranji 416 115.
- (41) Food Bazaar, Eternity Mall,
Variety Square, Sitabuldi,
Nagpur 440 012.
- (42) Food Bazaar, Infosys Tec.
Ltd., Plot No. 1, Rajiv Gandhi
Infotech Park, Hinjawadi,
Taluka Mulsi, Pune 411 057.
- (43) Food Bazaar, Ishanya Mall,
Near Maharashtra Housing
Board, Viman Nagar,
Pune 411 014.

- (44) Big Bazaar, Amar Arma
Genesis, Opp. Domino Pizza,
Baner, Pune 411 045.
- (45) Food Bazaar, K Star Mall,
Trombay-Sion Road,
Chembur, Mumbai 400 071.
- (46) Food Bazaar, Infinity,
Link Road, Andheri (W.),
Mumbai 400 053.
- (47) Big Bazaar, Fountain Square,
Plot No. 5, Sector No. 7,
Kharghar,
Navi Mumbai 410 210.
- (48) Food Bazaar, Home Town,
247 Park, Hincon House,
L.B.S. Marg, Vikhroli (W.),
Mumbai 400 083.
- (49) Food Bazaar,
160/1, Temple Road, Civil
Lines, Opp. Science College
Ground, Nagpur 440 001.
- (50) Big Bazaar, Elite Mall, Gopal
Nagar Squire, Badnera Road,
Amravati 444 605.
- (51) Big Bazaar, Khandesh
Central, Nehru Chowk,
M. G. Road, Jalgaon 425 001.
- (52) Fashion @ Big Bazaar,
Prozone Mall, MIDC,
Aurangabad 431 001.
- (53) Big Bazaar, Hoppers Orbit,
S. No. 44, Dhanori-Alandi
Road, Vishrantwadi,
Pune 411 015.
- (54) Big Bazaar, Town Centre,
Amanora Park Town,
Sr. No. 181, Village Sade
Satara Nalli, Hadapsar,
Pune 411 028.
- (55) Big Bazaar, Fun City,
Plot No. 93, Sector 6A,
Kalyan-Ambernath Road,
Ulhasnagar, 421 003.
- (56) Food Bazaar, MSM Paranjape
Mall, Off.- Karve Road, Near
MES College, Pune 411 004.

- (57) Food Bazaar, Poonam Mall,
Vip Road, Khasra No. 91,
North Ambazari Road,
Nagpur 440 002.
- (58) Food Bazaar, Sobo Central
Cross Road, Pt. M. M.
Malaviya Marg, Tardeo,
Mumbai 400 015.
- (59) Food Hall, Palladium Mall,
Phoenix Mall Compound,
Senapati Bapat Marg, Lower
Parel, Mumbai 400 016.
- (60) Food Bazaar, Odeon Mall,
194, Vallabh Baug,
Ghatkopar (E.),
Mumbai 400 077.
- (61) Food Bazaar, ICC Tech Park,
Plot No. 403, Senapati Bapat
Marg, Pune 411 016.
- (62) Big Bazaar, Mexus Mall,
K. P. Compound, Jharimari,
Andheri-Kurla Road,
Kurla (W.), Mumbai 400 072.
- (63) Big Bazaar, Empress City,
Near Gandhi Sagar Lake,
Railway Station Road,
Reward Real Estate,
Nagpur 440 018.
- (64) Big Bazaar, Nirmal Lifestyle
Mall, LBS Marg, Opp.
Nirmal Nagar, Mulund (W.),
Mumbai 400 080.
- (65) Fashion @ Big Bazaar, K Star
Mall, Trombay Sion Road,
Chembur, Mumbai 400 071.
- (66) Big Bazaar, Runwal Town
Centre, Wyeth Labs,
Opp. Presidential Tower,
L.B.S. Marg, Ghatkopar,
Mumbai 400 086.
- (67) Big Bazaar, Maxus Mall,
Temba Hospital Road,
Near Salasar Housing
Complex, Bhayander (W.),
Thane 401 105.
- (68) Fashion @ Big Bazaar,
Infinity Mall, Next to Inorbit
Mall, Malad Link Road,
Malad (W.), Mumbai 400 053.

- (69) Fashion @ Big Bazaar, Runwal
Town Centre,
Wyeth Labs, LBS Marg,
Opp. Presidential Tower,
Ghatkopar (W.),
Mumbai 400 086.
- (70) Big Bazaar, Ishanya Mall,
Viman Nagar,
Near Maharashtra Housing
Board, Pune 411 014.
- (71) Fashion @ Big Bazaar, Ground
Floor, Orchid City Center,
265, BellasisRoad, Next to
Balwas Hotel, Mumbai 400
008.
- (72) Food Bazaar, Ground Floor,
Orchid City Center, 265,
BellasisRoad, Next to Balwas
Hotel, Mumbai 400 008.
- (73) Food Bazaar, Phoenix Market
City Mall, B/h. Baker Gauge,
Next TYCO Electrnics,
Viman Nagar, Nagar Road,
Pune 411 014.
- (74) Big Bazaar, Nirmal Life Style
Mall, Nirmal Nagar,
L.B.S. Road, Mulund (W.),
Mumbai 400 080.
- (75) Big Bazaar Direct, Plot 160/1,
Gupta Tower, 3rd Floor,
Temple Road, Opp. INST. of
Science Play Grnd. Civil Line,
Nagpur 440 001.
- (76) KB's Fair Price, Shop No. 4, 5,
Saikrupa Niwas, Vaisetpada
No. 1, Kurar Village,
Off Western Exp. Highway,
Malad (E.), Mumbai.
- (77) KB's Fair Price, Shop No. 1, 2,
3, Royal Garden, S. V. Road,
Jogeshwari (W.), Mumbai.
- (78) KB's Fair Price, Shop No. 10,
Dheeraj Kaveri, Off Chincholi,
Mumbai.
- (79) KB's Fair Price, Swity Land
Bldg., Asha Nagar, Thakur
Complex, Mumbai.

- (80) KB's Fair Price, Shop No. 7, 9,
Goodwill Arcade, Sector 10,
Nerul (W.), Navi Mumbai.
- (81) KB's Fair Price, Shop No. 9,
10, 11, Goyal Plaza,
Borivali (E.), Mumbai.
- (82) KB's Fair Price, Shop No. 12,
14, Jangal Mangal Road,
Behind Police Station,
Bhandup, Mumbai.
- (83) KB's Fair Price, Shop No. 1, 2,
3, 4, Seawood Shanti Park,
Sector , Nerul, Navi Mumbai.
- (84) KB's Fair Price, Shop No. 4, 5,
6, Bhanukant Complex, Arey
junction, Goregaon (E.),
Mumbai.
- (85) KB's Fair Price, Bhumiraj
Manor, Plot No. 3, Sector ,
Sanpada, Navi Mumbai.
- (86) KB's Fair Price, Shop No. 1,
Padmavati Apartment 110-
112, T. H. Kataria Marg,
Matunga (W.) Mumbai.
- (87) KB's Fair Price, Car Care
Centre, 43 Napean Sea Road,
Mumbai.
- (88) KB's Fair Price, Auto Care
Centre, 3/4, Junction of S. V.
Road and Turner Road,
Bandra (W.), Mumbai.
- (89) KB's Fair Price, Shop No. 7
and 8, D-Wing Charkop Kesar
CHS Ltd., Plot No. 239,
RDP-6, Mhada Layout,
Charkop, Kandivali (W.),
Mumbai.
- (90) KB's Fair Price, Shop No. 9
and 10, Dhanlaxmi CHS Ltd.,
Opp. Shabri Hotel Vidya
Niketan Road, Off M. G.
Road, Goregaon (W.),
Mumbai.
- (91) KB's Fair Price, Shop No. 21,
22, Patidar Complex,
Kannamwar Nagar-2,
Vikhroli (E.), Mumbai.

- (92) KB's Fair Price, Shop No. 2,
Gulmohar Bldg., Flower
Valley, Birla College Road,
Khadakpada, Kalyan (W.).
- (93) KB's Fair Price, 26, Kapad
Bazar Market, Mahim,
Mumbai.
- (94) KB's Fair Price, Plot No. 144,
Bhagat Kanwar Road, Kopri,
Thane (E.).
- (95) KB's Fair Price, Shop No. 4, 5,
6, Shiv Sandan Bldg., Tisgaon,
Kalyan.
- (96) KB's Fair Price, Shop No. 2, 3,
4, Rukmini Chs., Plot No. 36,
R. D. P. 1, Sector 2, Charkop,
Kandivali (W.), Mumbai.
- (97) KB's Fair Price, Shop No. 16,
17, Yamuna Building, Jangid
Complex, Mira Road (E.).
- (98) KB's Fair Price, Shop No. 4, 5,
Fatima Mahal, Opp. Narendra
Park, Nayaanagar,
Mira Road (E.).
- (99) KB's Fair Price, Shop No. 1,
Ground Floor, Trimurti Kripa
Chs. Ltd., No. II, Yoginagar,
Borivali (W.), Mumbai.
- (100) KB's Fair Price, Shop No. 1,
Navdeep CHS Ltd., Navghar
Phatak Road, Nr. Goddev
Naaka, Bhayander (E.).
- (101) KB's Fair Price, Shree
Complex, Shop No. 14-15,
Plot No. 106-112,
Sector 14, Kamothe,
Navi Mumbai 410 209.
- (102) KB's Fair Price, Shop No. 2, 3,
Four Flight Chs Ltd., RDP 8,
Plot No. 241, Sector-4,
Charkop, Kandivali (W.).
- (103) KB's Fair Price, Shop No. 3,
Sunil Niwas, Ghanashyam
Gupte Road, Tilak Chowk,
Dombivali (W.).
- (104) KB's Fair Price, Shop No. 7,
Thakur Chawl, Opp. Railway
Station, Bunderwadi,
Bhayander (E.).

- (105) KB's Fair Price, Shop No. 6
and 7, Ground Floor, Madhav
Shristhi, C-06, Wing, Godrej
Hill Road, Barave Vilege,
Kalyan (W.).
- (106) KB's Fair Price, Shop No. 1,
2, Tulip Garden, Central Park,
Nalasopara (E.), Thane.
- (107) KB's Fair Price, Shop No. 2,
Sai Sagar, Achole Road,
Nalasopara (E.) 401 209.
- (108) KB's Fair Price, Shop No. 36,
Shivam Shopping Center,
Near Railway Station
Nalasopara (W.), Thane.
- (109) KB's Fair Price, Shop No. 1
and 2, A Wing, Plot No. 454,
Chunabatti, Mumbai 400 020.
- (110) KB's Fair Price, L1, L2,
Nasheman Colony,
Opp. MTNL Telephone
Exchange, Mumbra, Kausa
Road, Thane 400 612.
- (111) KB's Fair Price, Shop No. 1,
GF, Seva Samiti CHS., Plot
No. 368, Comrade
Harbanshlal Marg, GTB,
Nagar, Mumbai 400 037.
- (112) KB's Fair Price, Shop No. 1,
Ground Floor, 'F' Type
Building, Shopping Centre,
Sector-6, Vashi,
Navi Mumbai 400 703.
- (113) KB's Fair Price, Shop No. 1, 2,
and 4, Ground Floor,
Gajbandhan Apartment,
Gograswadi, Opp. Bus Stand,
Dombivali (E.), Thane 420 401.
-

By order and in the name of the Governor of Maharashtra,

A. M. BAWISKAR,
Section Officer.

११४

शुक्रवार, ऑक्टोबर ११, २०१३/आश्विन १९, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय, मुंबई ४०० ०३२, दिनांक ९ ऑक्टोबर २०१३.

अधिसूचना

कारखाने अधिनियम, १९४८.

क्रमांक एफएसी.२०१३/सं.क्र. १३३/प्र.क्र. १५३/काम-४.—कारखाने अधिनियम, १९४८ च्या कलम ६६(१)(ब) मधील परंतुकान्वये प्रदान करण्यात आलेल्या शक्तींचा वापर करून महाराष्ट्र शासन या अधिसूचनेद्वारे मे. अँक्टीफ कॉर्पोरेशन लि., स्टेशन रोड, जवाहर नगर, इचलकरंजी ४१६ ११५ या कारखान्यास कारखाने अधिनियम, १९४८ मधील महिला कर्मचाऱ्यांच्या कामाच्या वेळेसंबंधी असणाऱ्या तरतुदीमधून सूट देत असून याबाबत संमती असणाऱ्या महिला कर्मचाऱ्यांना सकाळी ५-०० ते सायंकाळी १०-०० वाजेपर्यंतच्या कालावधीकरिता काम करण्यास सदर अधिसूचना निर्गमित झाल्याच्या दिनांकापासून पुढील १ वर्षाच्या कालावधीकरिता परवानगी देत आहे. सदर सूट ही खालील अटींच्या अधीन राहून देण्यात येत आहे :—

अटी

(१) कोणत्याही महिला कामगारास रात्री १०-०० वाजल्यापासून सकाळी ५-०० वाजेपर्यंत कामावर ठेवू नये.

(२) व्यवस्थापनाने महिला कामगारांना, कामगारांच्या निवासस्थानापासून, कारखान्यापर्यंत व पुन्हा परत त्यांच्या निवासस्थानापर्यंत त्यांना ने-आण करण्यासाठी बस किंवा मोटारगाड्यातून विनामूल्य सोय केली पाहिजे. तसेच त्यांना कामावर येताना, जाताना व कामाच्या ठिकाणी सुरक्षिततेची पुरेशी व्यवस्था केली पाहिजे.

(३) स्त्री कर्मचाऱ्यांच्या कामाच्या ठिकाणी व्यवस्थापनाने निवासस्थान ते आस्थापना व आस्थापना ते निवासस्थानाच्या वाहतुकीमध्ये स्त्री सुरक्षा रक्षकाची नियुक्ती करण्यात यावी. सकाळी ५-०० ते दुपारी २-०० व दुपारी २-०० ते रात्री १०-०० या पाळीत काम करणाऱ्या स्त्री कर्मचाऱ्यांच्या १ ते १० संख्येला एक महिला सुरक्षा रक्षक नेमण्यात यावी. त्याच पटीत पुढे सुरक्षा रक्षक नेमण्यात यावेत. स्त्री सुरक्षा रक्षकांना स्वसंरक्षणार्थ व त्यांच्या देखरेखीखाली असलेल्या स्त्री कर्मचाऱ्यांच्या संरक्षणाकरिता ज्युडो, कराटे इत्यादींचे प्रशिक्षण देण्यात यावे.

(४) स्त्री कर्मचाऱ्यांकरिता स्वतंत्र लॉकर्सची व्यवस्था करण्यात यावी व स्त्री कर्मचाऱ्यांच्या विश्रांतीकरिता विश्रांती कक्ष निर्माण करण्यात यावा. या पाळीत काम करणाऱ्या स्त्री कर्मचाऱ्यांना किमान पाच स्त्री कर्मचाऱ्यांच्या गटागटाने काम करण्यास देण्यात यावे.

(५) प्रत्येक स्त्री कर्मचाऱ्यास प्रत्येक सप्ताहामध्ये आलटून पालटून साप्ताहिक सुट्टी कोणत्याही प्रकारची वेतनातून कपात न करता देण्यात यावी. कर्मचाऱ्यांना आठवड्यात गटागटाने सुट्टी देण्यात यावी.

(६) साप्ताहिक सुट्टीचे वेळापत्रक प्रत्येक महिन्याच्या शेवटच्या दिवशी कर्मचाऱ्यांच्या माहितीसाठी सूचनाफलकावर प्रदर्शित करावे. कोणत्याही कर्मचाऱ्यास साप्ताहिक रजेपासून वंचित केले जाणार नाही. त्यांना आठवड्याची भरपगारी रजा दिली जाईल.

(७) कर्मचाऱ्याच्या जादा कामाचा भत्ता, कामाचा विस्तार कालावधी व इतर अनुषंगिक बाबींबाबत कारखाने अधिनियम व महाराष्ट्र कारखाने नियम यांमधील तरतुदींचे पालन करणे आवश्यक आहे.

(८) महिला कामगारांचे ६ वर्षांपेक्षा लहान मुलांसाठी पाळणाघराची सुविधा उपलब्ध केली पाहिजे.

(९) पाळणाघराच्या व्यवस्थेचा फायदा घेण्याकरिता जे कामगार आपली लहान मुले कारखान्यात आणू इच्छितात त्या मुलांनाही उपरोक्त अट क्रमांक ८ मधील सुविधा कारखाना व्यवस्थापनाने उपलब्ध करून दिली पाहिजे.

(१०) सदर सूट ही या प्रस्तावासोबत संमतीपत्र देणाऱ्या महिलांकरिताच लागू राहील. या सूटबाबत संमती देणाऱ्या महिलांची किंवा युनियनची तक्रार असल्यास त्यांच्याबाबतीत सदर सवलत लागू राहणार नाही.

(११) व्यवस्थापनाने सदर सूट मिळालेल्या अधिसूचनेची प्रत ठळकपणे सर्व महिला कर्मचाऱ्यांच्या माहितीकरिता सूचना फलकावर प्रदर्शित केली पाहिजे.

(१२) महिला कर्मचाऱ्यांच्या वेळेच्या संबंधात मा. उच्च न्यायालय, मद्रास यांनी रिट पिटीशन क्र. ४३६०/९९ या केसमध्ये दिलेल्या मार्गदर्शक तत्वांचे कारखाना व्यवस्थापनाने पालन केले पाहिजे.

(१३) वरील आस्थापनेस दिलेली सूट ही सदर अधिसूचना **राजपत्रात** प्रसिद्ध झाल्याच्या दिनांकापासून पुढे एक वर्षाच्या कालावधीकरिता अंमलात येईल.

(१४) वरील क्रमांक १ ते १२ च्या अटींचे व्यवस्थापनाकडून उल्लंघन झाल्यास वरीलप्रमाणे दिलेली सूट/सवलत आपोआप रद्द समजली जाईल.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

रविकुमार पाटणकर,

कक्ष अधिकारी.

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शुक्रवार, ऑक्टोबर १८, २०१३/आश्विन २६, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा मार्ग, हुतात्मा राजगुरु चौक, मंत्रालय, मुंबई ४०० ०३२, दिनांक १५ ऑक्टोबर २०१३

अधिसूचना

महाराष्ट्र सहायक उपक्रम (खास उपबंध) अधिनियम.

क्रमांक बीआरयू. २०१३/प्र.क्र.१४/१३/उद्योग-१०.— महाराष्ट्र सहायक उपक्रम (खास उपबंध) अधिनियम (१९५८ चा ९६) कलम ३ आणि कलम ४ चे पोट-कलम (१) खंड (अ) उप खंड (चार) याद्वारे प्रदान करण्यात आलेल्या शक्तीचा वापर करून महाराष्ट्र शासन याद्वारे,—

(अ) असे घोषित करित आहे की, बेकारी निवारण्याचा एक उपाय म्हणून ज्याला राज्य शासनाने कोकण विकास महामंडळ मर्या., मुंबई यांचेमार्फत रुपये ८४,६४,६१९ (रुपये चौऱ्याऐशी लक्ष चौसष्ट हजार सहाशे एकोणीस फक्त) चे जे अर्थसहाय्य केले आहे ज्यात रुपये २०,४८,३०० (रुपये वीस लक्ष अठेचाळीस हजार तीनशे फक्त) एवढे विक्रीकर प्रोत्साहन योजना, १९८८ अंतर्गत, रुपये ३२,५०,००० (रुपये बत्तीस लक्ष पन्नास हजार फक्त) राज्य सबसिडी तसेच रुपये ३१,६६,३१९ (एकतीस लक्ष सहासष्ट हजार तीनशे एकोणीस फक्त) व्याजमुक्त विक्रीकर कर्ज समाविष्ट आहे. त्या मे. जेआयके इंडस्ट्रीज लिमिटेड, नोंदणीकृत कार्यालय पाडा नं. ३, बाळकूम, ठाणे (पश्चिम) ४०० ६०८ आणि प्रशासकीय कार्यालय १, २, ३ व १६, गुंदेचा चेंबर्स, नगीनदास मास्टर रोड, फोर्ट, मुंबई ४०० ०२३ (ज्याला यात यापुढे “सहायक उपक्रम” म्हणून संबोधण्यात आले आहे.) त्याला बेकारी निवारण्याचा एक उपाय म्हणून महाराष्ट्र सहायक उपक्रम (खास उपबंध) अधिनियम, १९५८ अन्वये दिनांक १५ ऑक्टोबर २०१३ रोजी सुरू होणाऱ्या आणि दिनांक १४ ऑक्टोबर २०१४ रोजी संपणाऱ्या (दोन्ही दिवस धरून) एक वर्षाच्या कालावधीसाठी “सहायक उपक्रम” म्हणून घोषित करित आहे; आणि

(ब) असे निदेश देत आहे की, उक्त सहायक उपक्रमाच्या संबंधात आणि उक्त सहायक उपक्रम पुढील एक वर्षाच्या ज्या कालावधीत “सहायक उपक्रम” म्हणून चालू राहणार आहे त्या दिनांक १५ ऑक्टोबर २०१३ रोजी सुरू होणाऱ्या आणि दिनांक १४ ऑक्टोबर २०१४ रोजी संपणाऱ्या (दोन्ही दिवस धरून) एक वर्षाच्या कालावधीच्या संबंधात उपार्जित किंवा संपादित होणारे कोणतेही हक्क, विशेषाधिकार, बंधन किंवा दायित्व (उक्त उपक्रमाच्या कामगारांसाठी राज्य कामगार विमा महामंडळाच्या देय रकमा, कर्मचारी भविष्यनिर्वाह निधी आणि

संकीर्ण तरतुदी अधिनियम, १९५२ (१९५२ चा १९) आणि महाराष्ट्र जमीन महसूल संहिता, १९६६ (१९६६ चा महा.४१), महाराष्ट्र राज्य व्यवसाय, व्यापार, उपजिविका व नोकऱ्या यावरील कर अधिनियम, १९७५ (१९७५ चा महा.१६) आणि महाराष्ट्र मूल्यवर्धीत कर अधिनियम, २००२ (२००५ चा महा. ९ अन्वये पत्करलेली कोणतीही दायित्वे), अन्वये उपार्जित अथवा पत्करलेली कोणतीही बंधने किंवा दायित्वे खेरीज करून आणि जी बंधने किंवा दायित्वे दिनांक १५ ऑक्टोबर २०१३ च्या पूर्वी उपार्जित अथवा पत्करलेली असतील त्यांच्या अंमलबजावणीसाठी असलेली कोणतीही उपाययोजना निलंबित केली जाईल आणि कोणतेही न्यायालय, न्यायाधिकरण, अधिकारी किंवा प्राधिकरण यांच्यापुढे असलेली त्यांच्या संबंधातील सर्व कार्यवाही स्थगित केली जाईल.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

रमेश कृ. निखारगे,

कार्यासन अधिकारी.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032, dated the 15th October 2013

NOTIFICATION

MAHARASHTRA RELIEF UNDERTAKINGS (SPECIAL PROVISIONS) ACT.

No. BRU. 2013/C.R.14/13/Ind.10.— In exercise of the powers conferred by sub-section (1) of section 3 and sub-clause (iv) of clause (a) of sub-section (1) of section 4 of the Maharashtra Relief Undertakings (Special Provisions) Act (XCVI of 1958), the Government of Maharashtra hereby,—

(a) declares that the industrial undertaking called 'Messrs JIK Industries Limited', having its registered office at Pada No.3, Balkum, Thane (West) 400 608 and administrative office at 1, 2, 3 and 16, Gundecha Chambers, N.M.Road, Fort, Mumbai 400 023 (hereinafter referred to as "the said relief undertaking"), to which financial assistance of Rs. 84,64,619 (Eighty four lakhs sixty four thousand six hundred nineteen only) has been provided by the Government of Maharashtra, which comprises of Rs.20,48,300(Rupees Twenty lakhs fourty eight thousand three hundred only) as Sales Tax Incentives under the Package Scheme of Incentives, 1988 from the Development Corporation of Konkan Limited and Rs.32,50,000 (Rupees Thirty two lakhs fifty thousand only) towards state subsidy and Rs.31,66,319 (Rupees Thirty one lakhs sixty six thousand three hundred nineteen only) as interest free sales tax loan from the Development Corporation of Konkan Ltd., should for a period of one year commencing on the 15th October 2013 and ending on the 14th October 2014 (both days inclusive), be conducted to serve as a measure of preventing unemployment relief ; and

(b) directs that, in relation to the said relief undertaking and in respect of the said period of one year commencing on the 15th October 2013 and ending on the 14th October 2014 (both days inclusive), for which the said relief undertaking continues as such, any right, privilege, obligation or liability (except the obligations or liabilities incurred in favour of workmen of the said relief undertaking, the dues of Employees' State Insurance Corporation and any liabilities incurred under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), the Maharashtra Land Revenue Code, 1966 (Mah.XLI of 1966), the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Mah.XVI of 1975) and the Maharashtra Value Added Tax Act, 2002 (Mah.IX of 2005), accrued or incurred before the 15th October 2013 and any remedy for the enforcement thereof shall be suspended and all proceedings relating thereto pending before any court, tribunal, officer or authority shall be stayed.

By order and in the name of the Governor of Maharashtra,

RAMESH K. NIKHARGE,
Desk Officer.

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 शुक्रवार, ऑक्टोबर १८, २०१३/आश्विन २६, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा मार्ग, हुतात्मा चौक,
मंत्रालय, मुंबई ४०० ०३२, दिनांक १८ ऑक्टोबर २०१३.

अधिसूचना

प्रसुती लाभ अधिनियम, १९६१.

क्रमांक प्रलाअ. ७२००८/प्र.क्र. १०१५/कामगार ७.— प्रसुती लाभ अधिनियम, १९६१ (१९६१ चा ५३) च्या कलम २८ च्या पोट-कलम (१) व (२) याद्वारे प्रदान करण्यात आलेल्या अधिकारांचा आणि त्याबाबतीत महाराष्ट्र शासनास समर्थ करणाऱ्या इतर सर्व अधिकारांचा वापर करून महाराष्ट्र प्रसुती लाभ नियम, १९६५ यामध्ये सुधारणा करण्यासाठी महाराष्ट्र शासनाने जे नियम करण्याचे योजले आहे त्या नियमांचा पुढील मसुदा उक्त अधिनियमाच्या कलम २८ च्या पोट-कलम (१) द्वारे आवश्यक असल्याप्रमाणे त्यामुळे परिणाम होण्याचा संभव असलेल्या सर्व व्यक्तींच्या माहितीसाठी प्रसिद्ध करण्यात येत आहे आणि त्याद्वारे अशी सूचना देण्यात येत आहे की, **महाराष्ट्र शासनाच्या राजपत्रात** सदरहू अधिसूचना प्रसिद्ध झाल्याच्या दिनांकापासून ४५ दिवसांनंतर महाराष्ट्र शासन उक्त मसुदा विचारात घेईल ;

उक्त मसुद्याच्या संबंधात उपरोक्त कालावधी संपण्यापूर्वी कोणत्याही व्यक्तीकडून जे कोणतेही अभिवेदन कामगार आयुक्त, कामगार भवन, ई ब्लॉक, सी २०, वांद्रे-कुर्ला संकुल, वांद्रे (पूर्व), मुंबई ४०० ०५१ यांच्याकडे येईल ते शासनाकडून विचारात घेण्यात येईल.

नियमांचा मसुदा

(१) या नियमांना, महाराष्ट्र प्रसुती लाभ (सुधारणा) नियम, २०१३ असे म्हणावे.

(२) महाराष्ट्र प्रसुती लाभ नियम, १९६५ च्या नियम २ मधील खंड (ब) ऐवजी पुढील खंड दाखल करण्यात येईल :—

“(ब) ‘सक्षम प्राधिकारी’ ह्याचा अर्थ औद्योगिक विवाद अधिनियम, १९४७ (१९४७ चा १४) च्या कलम ४ अन्वये अधिसूचित करण्यात आलेल्या स्थानिक क्षेत्रासाठी उक्त कलम ४ अन्वये समेट अधिकारी म्हणून नियुक्त केलेला सहायक कामगार आयुक्त.”

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

अरविंद कुमार,
शासनाचे प्रधान सचिव.

In pursuance of clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, No. MBA. 72008/CR-1015/LAB-7, dated the 18th October 2013 published in the *Maharashtra Government Gazette*, Part I-L, Extra Ordinary is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

ARVIND KUMAR,
Principal Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032, dated the 18th October 2013

NOTIFICATION

MATERNITY BENEFIT ACT, 1961.

No. MBA. 72008/C.R.-1015/LAB-7.—The following draft of rules further to amend the Maharashtra Maternity Benefit Rules, 1965, which the Government of Maharashtra, proposes to make in exercise of powers conferred by sub-sections (1) and (2) of section 28 of the Maternity Benefit Act, 1961 (53 of 1961), and all other powers enabling it in that behalf, is hereby published as required by sub-section (1) of section 28 of the said Act, for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration by the Government of Maharashtra after expiry of the period of 45 days from the date of publication of this notification in the *Maharashtra Government Gazette* ;

2. Any objections or suggestions which may be received by the Commissioner of Labour, 'Kamgar Bhavan', C-20, 'E' Block, Bandra-Kurla Complex, Bandra (E.), Mumbai 400 051, from any person with respect to the said draft before the expiry of aforesaid period, will be considered by the Government.

DRAFT RULES

(1) These rules may be called the Maharashtra Maternity Benefit (Amendment) Rules, 2013.

(2) In rule 2 of the Maharashtra Maternity Benefit Rules, 1965, for clause (b), the following clause shall be substituted, namely :—

“(b) “Competent Authority” means the Assistant Commissioner of Labour appointed as a Conciliation Officer under section 4 of the Industrial Dispute Act, 1947 (XIV of 1947), for the local area notified under the said section 4;”.

By order and in the name of the Governor of Maharashtra,

ARVIND KUMAR,
Principal Secretary to Government.

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सोमवार, ऑक्टोबर २१, २०१३/आश्विन २९, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,
मुंबई ४०० ०३२, दिनांक २१ ऑक्टोबर २०१३.

अधिसूचना

संदर्भ.— महाप्रबंधक, मा. उच्च न्यायालय, मुंबई, यांची अधिसूचना क्र. ए-३९०२/२०१३, दिनांक १७ सप्टेंबर २०१३.

महाराष्ट्र कामगार संघांना मान्यता देण्याबाबत आणि अनुचित कामगार प्रथांना प्रतिबंध करण्याबाबत अधिनियम, १९७९.

क्रमांक यूएलपी. २०१३/प्र.क्र. २७९/काम-३.—उपरोक्त संदर्भित अधिसूचनेस अनुसरून खाली नमूद केलेल्या न्यायिक अधिकाऱ्याची न्यायाधिश, कामगार न्यायालय या पदावर महाराष्ट्र कामगार संघांना मान्यता देण्याबाबत आणि अनुचित कामगार प्रथांना प्रतिबंध करण्याबाबत अधिनियम, १९७९ (१९७२ चा एक) याच्या कलम ६ अन्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करून, महाराष्ट्र शासन याद्वारे पुढीलप्रमाणे न्यायाधिशांची नियुक्ती करित आहे :—

अ.क्र.	न्यायाधीशांचे नाव व सध्याचे पदनाम	कोणाच्या जागी	सदस्यांचे नाव व नवीन पदनाम	शासन अधिसूचना क्रमांक
(१)	(२)	(३)	(४)	(५)
१	श्री. राजकुमार व्ही. भक्ता, सहायक धर्मादाय आयुक्त, मुंबई	श्री. ए. डी. कुलकर्णी	श्री. राजकुमार व्ही. भक्ता, न्यायाधिश, १०वे कामगार न्यायालय, मुंबई.	यूएलपी.११८२/६०८८/ कामगार-९, दिनांक १७ फेब्रुवारी १९८२.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सु. सा. चौधरी,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. ULP.2013/C.R. 279/Lab-3, dated the 21st October 2013, Extra Ordinary is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

B. S. KOLASE,
Joint Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 21st October 2013.

NOTIFICATION

Ref.— Notification No. A-3902/2013, dated 17th September 2013 of the Registrar General, High Court, Bombay.

MAHARASHTRA RECOGNITION OF TRADE UNIONS AND PREVENTION OF UNFAIR LABOUR PRACTICES ACT, 1971.

No. ULP. 2013/C.R. 279/Lab-3.—With reference to the Notification under reference, the Government of Maharashtra, hereby appoints the following judicial Officer as Judge of Labour Court in exercise of the powers conferred by Section 6 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair labour Practices Act, 1971(1 of 1972) :—

Sr. No.	Judge's Name and Present Designation	On Whose Place	Member's Name and New Designation	Government Notification No.
(1)	(2)	(3)	(4)	(5)
1	Shri Rajkumar V. Bhakta, Assistance Charity Commissioner, Mumbai.	Shri A. D. Kulkarni.	Shri Rajkumar V. Bhakta, Judge, 10th Labour Court, Mumbai.	ULP.1182/6088/ Lab-9, dated 17th February 1982.

By order and in the name of the Governor of Maharashtra,

S. S. CHAUDHARI,
Desk Officer.

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 सोमवार, ऑक्टोबर २१, २०१३/आश्विन २९, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरू चौक, मंत्रालय,
मुंबई ४०० ०३२, दिनांक २१ ऑक्टोबर २०१३.

अधिसूचना

महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८.

क्रमांक एमएसए. ०८/२०१३/प्र.क्र. २९१/कामगार-१०.—मुंबई दुकाने व आस्थापना अधिनियम, १९४८ (१९४८ चा मुंबई एकोणऐंशी) (यात यापुढे ज्याचा “ उक्त अधिनियम ” असा उल्लेख करण्यात आलेला आहे) याच्या कलम ४ च्या परंतुकाद्वारे प्रदान करण्यात आलेल्या अधिकारांचा वापर करून, महाराष्ट्र शासन याद्वारे, उक्त अधिनियमाच्या अनुसूची दोन मध्ये खालीलप्रमाणे सुधारणा करित आहे :-

उक्त अधिनियमाच्या अनुसूची दोन मधील क्रमांक “ ६२८ ” नंतर खालील नोंदीचा समावेश करण्यात येईल :-

“ ६२९ मे. जी. जे. सी. कॉर्पोरेशन, बी-१,
अमरचंद मेन्शन, मादाम कामा रोड,
कुलाबा, मुंबई ४०० ०३९.

उक्त अधिनियमाच्या कलम १९ मधून खालील शर्तीच्या अधीन राहून :-

- (१) सदर सूट ही शासन राजपत्रात अधिसूचना प्रसिद्ध झाल्याच्या दिनांकापासून तीन वर्षांच्या कालावधीकरिता लागू राहील.
- (२) आस्थापना कोणत्याही दिवशी रात्री ३-०० वाजलेनंतर उघडी राहणार नाही.
- (३) कर्मचाऱ्यास दररोज ९ तास किंवा आठवड्यामध्ये ४८ तासांपेक्षा जास्त काम करणे आवश्यक असणार नाही व दररोजच्या कामाची व्याप्ती ११ तासांपेक्षा जास्त असणार नाही.
- (४) प्रत्येक कर्मचाऱ्यास त्याच्या वेतनातून कुठल्याही प्रकारची कपात न करता आठवड्यातून एक दिवस भरपगारी सुट्टी देण्यात यावी व सुट्टीसंबंधीचे प्रत्येक महिन्याचे वेळापत्रक सूचना फलकावर आगाऊ लावण्यात यावे.
- (५) कोणत्याही कर्मचाऱ्यास त्याच्या अतिकालिक कामाबद्दल कलम ६३ मध्ये विहित केलेल्या दराने अधिक वेतन देण्यात यावे.
- (६) प्रत्येक कर्मचाऱ्यास सलग पाच तास काम केल्यावर एक तासाची विश्रांती देण्यात यावी.

- (७) कर्मचाऱ्यांना राष्ट्रीय व सणाच्या सुट्ट्या देण्यात याव्यात.
- (८) प्रत्येक कर्मचाऱ्यास आस्थापनेकडून कलम २५ नुसार ओळखपत्र देण्यात यावे.
- (९) महिला कर्मचाऱ्यांसाठी कामाच्या ठिकाणी स्वतंत्र लॉकर, सुरक्षा व विश्रांतीगृह यांची व्यवस्था करण्यात यावी.
- (१०) महिला कर्मचाऱ्यांना रात्री ९-३० वा. नंतर कामावर ठेवण्यात येऊ नये.
- (११) महिला कर्मचाऱ्यांना मद्यविक्रीच्या ठिकाणी काम देण्यात येऊ नये.
- (१२) आस्थापना बंद करण्याच्या वेळेतून सूट देण्यात येत असल्याने वाढीव कामासाठी नवीन कर्मचारी नियुक्त केले जावेत.
- (१३) आस्थापनेत महिला लैंगिक छळवाद प्रतिबंध करण्यासाठी तक्रार निवारण समिती स्थापन करण्यात यावी.
- (१४) सदरहू सूट ही संमतीपत्र सादर केलेल्या कामगारांपर्यंतच मर्यादित राहिल.
- (१५) मद्यविक्री व मनोरंजनात्मक कार्यक्रमासंदर्भात संबंधित विभागाचे नियम लागू राहतील.
- (१६) सदर सूट ही मुंबई दुकाने व आस्थापना अधिनियम पुरतीच मर्यादित आहे.
- (१७) वरील अटी व शर्ती व्यतिरिक्त अधिनियमातील इतर तरतुदी आस्थापनेस यथास्थिती लागू राहतील.
- (१८) वरीलपैकी कोणत्याही अटीचा व शर्तीचा भंग झाल्यास सूट आपोआप रद्द होईल. ”

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

अ. म. बाविस्कर,
कार्यासन अधिकारी.

In pursuance of clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. MSA. 08/2013/C.R. 291/Lab-10, dated the 21st October 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

BALASAHEB KOLASE,
Joint Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 21st October 2013.

NOTIFICATION

MAHARASHTRA SHOPS AND ESTABLISHMENT ACT, 1948.

No. MSA. 08/2013/C.R. 291/Lab-10.—In exercise of the powers conferred by the proviso to Section 4 of the Bombay Shops and Establishment Act, 1948 (Bom. LXXIX of 1948) hereinafter referred to as the said Act, the Government of Maharashtra hereby amends Schedule II of the said Act as follows, namely :—

In Schedule II of the said Act, after entry “628” the following entry shall be added, namely :—

- | | |
|---|---|
| <p>“ 629 M/s. G. J. C. Corporation,
 B-1, Amarchand Mansion,
 Madam Cama Road, Colaba,
 Mumbai 400 039.</p> | <p>Section 19 subject to the following condition :—</p> <ol style="list-style-type: none"> (1) This exemption shall remain in operation for the period of three years from the date of Notification published in the <i>Government Gazette</i>. (2) The establishment shall not remain open on any day later than 3-00 a.m. (3) No employee shall be required to work for more than 9 hours in a day or 48 hours in a week. The spread over of an employee shall not exceed 11 hours in a day. (4) Every employee shall be given one day holiday in a week without making any deductions from his/her wages on account thereof and list of the time table of such holidays for a month shall be placed on the notice board in advance. (5) The employees shall be entitled to overtime wages in accordance with Section 63 of the said Act. (6) Every employee shall be given a rest period of one hour after 5 hours of continuous work. (7) Employees shall be given national and festival holidays. |
|---|---|

- (8) Every employee shall be provided Identity Card, according to the Section 25.
- (9) Female employees shall be provided separate lockers, Security and rest rooms at the work place.
- (10) Female employees will not be allowed to work after 9-30 p.m.
- (11) Female employees shall not allow to work at the place where liquor is served.
- (12) As the exemption is given from closing time of the establishment, new staff shall be appointed for the extended work.
- (13) Complaint redressal committee against sexual harassment of women should be established.
- (14) This exemption is limited to the employees who have given their consent.
- (15) Rules of respective department for the sale of liquor and entertainment shall be applicable.
- (16) This exemption is related only to Bombay Shops and Establishment Act, 1948.
- (17) In spite of these terms and conditions, all the provisions of this Act shall be applicable to the establishment duly.
- (18) In case of violation of any of the above terms and conditions, the exemption shall stand cancelled automatically."

By order and in the name of the Governor of Maharashtra,

A. M. BAWISKAR,
Section Officer.

११९

 सोमवार, ऑक्टोबर २१, २०१३/आश्विन २९, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मंत्रालय, मुंबई ४०० ०३२, दिनांक २१ ऑक्टोबर २०१३.

अधिसूचना

क्रमांक आयसीई.०९१३/प्र.क्र. ११८/काम-६.—महाराष्ट्र चौकशी न्यायालय, कामगार न्यायालये व औद्योगिक न्यायालये यांचे न्यायिक अधिकारी (सेवाप्रवेश, नियुक्ती आणि शिस्तभंग विषयक कार्यवाही) नियम, १९९९ च्या नियम ५ नुसार प्रदान करण्यात आलेल्या अधिकारांचा वापर करून मा. उच्च न्यायालय, मुंबई यांनी त्यांचे पत्र क्र. अ १२२६/८३/६६७१/२०१३ दिनांक १६ सप्टेंबर २०१३ अन्वये केलेल्या शिफारशी नुसार “ श्री. यनशिवराज गोपिचंद खोब्रागडे यांची सदस्य, औद्योगिक न्यायालय, नागपूर ” या पदावर नियुक्ती करण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

ज. आ. खवणेकर,
शासनाचे अवर सचिव.

In pursuance of Clause (3) of article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. ICE.0913/C.R. 118/Lab-6, dated the 21st October 2013, Extra ordinary is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

BALASAHEB KOLASE,
Joint Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 21st October 2013

NOTIFICATION

No. ICE.0913/C.R. 118/Lab-6.—In exercise of the power conferred by Rule 5 of Maharashtra Judicial Officers of the Courts of Enquiry, Labour Court, Industrial Courts (Recruitment, Appointment and Disciplinary Action) Rule, 1999 and with reference to the letter of Honble High Court, Mumbai No. A. 1226/83/6671/2013, dated 16th September 2013, The Government of Maharashtra hereby appoint “ Shri Yanshivraj Gopichand Khobragade as Member, Industrial Court, Nagpur. ”

By order and in the name of the Governor of Maharashtra,

J. A. KHAVNEKAR,
Under Secretary to Government.

१२०

मंगळवार, ऑक्टोबर २२, २०१३/आश्विन ३०, शके १९३५

उद्योग, ऊर्जा व कामगार विभागमादाम कामा रोड, हुतात्मा राजगुरू चौक, मंत्रालय,
मुंबई ४०० ०३२, दिनांक २२ ऑक्टोबर २०१३.**अधिसूचना****किमान वेतन अधिनियम, १९४८.**

क्रमांक किवेअ. १०१३/३८६/प्र.क्र. १७९/कामगार-७.—किमान वेतन अधिनियम, १९४८ (१९४८ चा ११) (यात यापुढे ज्याचा “ उक्त अधिनियम ” असा उल्लेख करण्यात आलेला आहे.) हा महाराष्ट्र राज्यास लागू करण्यात आल्यानंतर त्याच्या कलम ३ च्या पोट-कलम (१) चा खंड (ब) अन्वये महाराष्ट्र राज्यातील “ यंत्रमाग उद्योग ” या रोजगारात कामावर असलेल्या कामगारांना देय असलेले किमान वेतन दर निर्धारित करण्याबाबतचा प्रस्ताव अंतर्भूत असलेली जी अधिसूचना काढण्याचे प्रस्तावित केलेले आहे, त्या अधिसूचनेचा पुढील मसुदा उक्त अधिनियमाच्या कलम ५ पोट-कलम (१) खंड (ब) द्वारे आवश्यक असल्याप्रमाणे त्यामुळे परिणाम होण्याचा संभव असलेल्या सर्व व्यक्तींच्या माहितीसाठी प्रसिद्ध करण्यात येत आहे, आणि त्याद्वारे अशी सूचना देण्यात येत आहे की, **महाराष्ट्र शासनाच्या राजपत्रात** सदरहू अधिसूचना प्रसिद्ध झाल्याच्या दिनांकापासून दोन महिन्यांनंतर महाराष्ट्र शासन उक्त मसुदा विचारात घेईल.

उक्त मसुद्याच्या संबंधात उपरोक्त कालावधी संपण्यापूर्वी कोणत्याही व्यक्तीकडून जे कोणतेही अभिवेदन कामगार आयुक्त, कामगार भवन, ई-ब्लॉक, सी-२०, बांद्रा-कुर्ला संकुल, बांद्रा (पूर्व), मुंबई ४०० ०५१ यांचेकडे प्राप्त होईल ते शासनाकडून विचारात घेण्यात येईल.

अधिसूचनेचा मसुदा

क्रमांक किवेअ.१०१३/३८६/प्र.क्र. १७९/कामगार-७.—ज्याअर्थी, महाराष्ट्र राज्यातील “ यंत्रमाग उद्योग ” या रोजगारात असलेल्या (यात यापुढे ज्याचा “ उक्त अनुसूचित रोजगार ” असा उल्लेख करण्यात आलेला आहे.) कामगारांना देय असलेले किमान वेतन दर शासन अधिसूचना, उद्योग, ऊर्जा व कामगार विभाग, क्रमांक किवेअ.५०८४/६०२७/कामगार-७, दिनांक १० जानेवारी १९८६ अन्वये पुनर्निर्धारित केले आहेत ;

आणि त्याअर्थी, महाराष्ट्र शासनाने पुनर्विलोकन करून उक्त अनुसूचित रोजगारातील कामगारांना देय असलेले किमान वेतन दर पुनर्निर्धारित करण्याचे ठरविले आहे.

त्याअर्थी, आता, किमान वेतन अधिनियम, १९४८ (१९४८ चा ११) हा महाराष्ट्र राज्यास लागू करताना त्याच्या कलम ३ च्या पोट-कलम (१) चा खंड (ब) आणि कलम ५ च्या पोट-कलम (२) याद्वारे प्रदान करण्यात आलेल्या अधिकारांचा वापर करून महाराष्ट्र शासन, शासकीय अधिसूचना, उद्योग, ऊर्जा व कामगार विभाग, क्रमांक कि.वे.अ. १०१३/३८६/प्र.क्र. १७९/कामगार-७, दिनांक २२ ऑक्टोबर २०१३ मध्ये प्रसिद्ध झालेल्या प्रस्तावाच्या संबंधात मिळालेली सर्व अभिवेदने विचारात घेतल्यानंतर आणि सल्लागार मंडळाचा सल्ला विचारात घेतल्यानंतर महाराष्ट्र शासन याद्वारे दिनांक पासून उक्त अनुसूचित रोजगारात नोकरीत असलेल्या खालील अनुसूचीच्या स्तंभ (२) मध्ये नमूद केलेल्या कामगारांच्या वर्गाला त्या अनुसूचीच्या स्तंभ (३) मध्ये नमूद केल्याप्रमाणे वेतनाचे किमान वेतन दर पुनर्निर्धारित करीत आहे :-

अनुसूची

अनुक्रमांक (१)	कामगारांची वर्गवारी (२)	किमान मूळ वेतन दर (दरमहा रुपये)		
		परिमंडळ-१	परिमंडळ-२	परिमंडळ-३
			(३)	
१	कुशल	९,५००	७,९००
२	अर्धकुशल	८,५५०	६,९५०
३	अकुशल	७,६००	६,०००
				४,४५०

स्पष्टीकरण.—या अधिसूचनेच्या प्रयोजनार्थ—

(ए) **परिमंडळ एक.**—महाराष्ट्र शासनाच्या नगरविकास विभागाच्या शासन निर्णय, क्र. संकिर्ण.१००५/वर्गीकरण/प्र.क्र. ३७९/०५/नवि-२४, दिनांक ४ मे २००६ अन्वये घोषित केलेले महाराष्ट्र राज्यातील अ,ब,क व ड महानगरपालिकांचे क्षेत्र, छावणी क्षेत्र तसेच महानगरपालिका क्षेत्रांपासून २० किलोमीटर पर्यंतचे औद्योगिक क्षेत्र ;

(बी) **परिमंडळ दोन.**—महाराष्ट्र राज्यातील अ व ब वर्ग नगरपरिषद क्षेत्र ;

(सी) **परिमंडळ तीन.**—परिमंडळ १ व २ समोर दर्शविलेले क्षेत्र वगळून उर्वरित सर्व क्षेत्र ;

(डी) रोजंदारीवर काम करणाऱ्या कामगारांना देय असलेले मजुरीचे किमान दर तो कामगार ज्या वर्गाचा असेल त्या वर्गासाठी निश्चित करण्यात आलेल्या मासिक मजुरीच्या दरांना २६ ने भागून येणारा भागाकार नजिकच्या पैशांपर्यंत पूर्णाकात करून काढण्यात येईल ;

(इ) अर्धवेळ काम करणाऱ्या कामगारांना देय असलेल्या प्रतितास किमान वेतनाचा दर तो कामगार ज्या वर्गवारीचा असेल, त्या वर्गवारीच्या रोजंदारी किमान वेतनास ८ तासाने भागून व त्यात १५% वाढ करून तसेच येणारी रक्कम नजिकच्या पैशांपर्यंत पूर्णाकात परिवर्तित करण्यात येऊन काढण्यात येईल ;

(एफ) किमान वेतन दरामध्ये साप्ताहिक सुट्टीच्या वेतनाचा समावेश असेल ;

(जी) किमान वेतन दरामध्ये मूळ दर, विशेष भत्ता आणि सवलती असल्यास त्याचे रोख मूल्य यासाठी अनुज्ञेय असलेल्या सर्व दरांचा समावेश असेल ;

(एच) एखादा कुशल कामगार म्हणजे जो स्वतःच्या निर्णय शक्तीनुसार आपले काम कार्यक्षमतेने व जबाबदारीने पार पाडू शकतो असा कामगार ;

(आय) अर्धकुशल कामगार म्हणजे सर्वसाधारणपणे नित्याच्या स्वरूपाचे काम करतो की, ज्यामध्ये निर्णय घेण्याची फारशी गरज नसते. परंतु तुलनेने त्याला दिलेले छोटेसे काम की, ज्यामध्ये महत्त्वाचे निर्णय इतरांकडून घेतले जातात असे काम योग्य रितीने पार पाडण्याची आवश्यकता असते. मर्यादित व्याप्तीचे नित्याचे काम पार पाडणे हेच त्याचे कर्तव्य असते ;

(जे) अकुशल कामगार म्हणजे ज्यास लहानसा किंवा स्वतंत्र निर्णय घेणे आणि पूर्वानुभव असणे आवश्यक नाही. परंतु तरीही व्यावसायिक परिस्थितीची माहिती असणे आवश्यक आहे, असे साध्या कर्तव्य पालनाचा अंतर्भाव असलेले काम करणारा कामगार म्हणून त्याच्या कामासाठी शारीरिक परिश्रमाशिवाय निरनिराळ्या वस्तूंची किंवा मालाची त्याला चांगली माहिती असणे आवश्यक असेल.

परिशिष्ट

महाराष्ट्र राज्यातील १० केंद्रांचा सरासरी ग्राहक मूल्य निर्देशांक (नवीन मालिका २००१-१००) हा उक्त अनुसूचित रोजगारात नोकरी करत असलेल्या कामगारांना लागू असलेल्या राहणीमान निर्देशांक असेल. महाराष्ट्र शासनाने नियुक्त केलेल्या सक्षम प्राधिकारी १ जानेवारी व १ जुलै रोजी सुरू होणाऱ्या प्रत्येक सहामाहीच्या समाप्तीनंतर त्या सहा महिन्यांसाठी उक्त कर्मचाऱ्यांना लागू असलेल्या राहणीमान निर्देशांकाची सरासरी काढील आणि २३० निर्देशांकावर अशा प्रत्येक अंकाच्या वाढीसाठी ज्या सहामाहीच्या संबंधात अशी सरासरी काढण्यात आलेली असेल, त्या सहा

महिन्यांलगत पुढील सहामाहीसाठी उक्त कर्मचाऱ्यांना देय असलेला विशेष भत्ता (यात यानंतर ज्याचा “ राहणीमान भत्ता ” असा निर्देश करण्यात आला आहे.) सर्व परिमंडळांच्या संबंधित दरमहा रुपये १७.०० दराने असेल.

२. सक्षम प्राधिकारी, **शासकीय राजपत्रातील** अधिसूचनेद्वारे, उपरोक्त प्रमाणे हिशेब करून काढलेला राहणीमान भत्ता, जानेवारी ते जून या कालावधीतील प्रत्येक महिन्यासाठी देय असेल तेव्हा जानेवारी महिन्याच्या शेवटच्या आठवड्यामध्ये आणि जुलै ते डिसेंबर या कालावधीमधील प्रत्येक महिन्यासाठी देय असेल तेव्हा जुलै महिन्याच्या शेवटच्या आठवड्यामध्ये जाहीर करील :

परंतु, सक्षम प्राधिकारी किमान वेतन निश्चित केल्याच्या दिनांकापासून देय असलेला राहणीमान भत्ता जून किंवा डिसेंबर अखेरपर्यंतच्या किंवा यथास्थिती, किमान वेतन दर निश्चित करण्यात आल्याच्या दिनांकानंतर लगेचच जाहीर करील.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

ज. आ. खवणेकर,
शासनाचे अवर सचिव.

In pursuance of clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, No. MWA. 1013/386/CR-179/Lab-7, dated the 22nd October 2013, published in the *Maharashtra Government Gazette*, Part I-L, *Extra-ordinary* is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

J. A. KHAVNEKAR,
Under Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032, dated the 22nd October 2013.

NOTIFICATION

MINIMUM WAGES ACT, 1948.

No. MWA. 1013/386/CR-179/Lab-7.—The following draft of a notification which is proposed to be issued under clause (b) of sub-section (1) of section 3 of the Minimum Wages Act, 1948 (11 of 1948), in its application to the State of Maharashtra, the Government of Maharashtra, containing proposal for revision of the minimum rates of wages payable to the employees employed in the Scheduled Employment, *viz*, “Employment in powerloom industry”, is hereby published as required by clause (b) of sub-section (1) of section 5 of the said Act, for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration by the Government of Maharashtra, after the expiry of two months from the date of publication of this notification in the *Maharashtra Government Gazette*.

Any representation, which may be received by the Commissioner of Labour, ‘Kamgar Bhavan, C-20, ‘E’ Block, Bandra-Kurla Complex, Bandra (E.), Mumbai 400 051, from any person, in respect of the said draft before the expiry of the above said period will be taken into consideration by the Government.

DRAFT NOTIFICATION

No. MWA. 1013/386/CR-179/Lab-7.—Whereas, by the Government Notification, Industries, Energy and Labour Department, No MWA. 5084/6027/Lab-7, dated the 10th January 1986, the Government of Maharashtra has revised the minimum rates of wages payable to the employees employed in the Scheduled Employment, *viz* “Employment in powerloom Industry” (hereinafter referred to as “the said scheduled employment”) in the State of Maharashtra ;

And whereas the Government of Maharashtra, having reviewed the minimum rates of wages payable to the employees employed in the said scheduled employment, considers it necessary to revise them further ;

Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of section 3 read with sub-section (2) of section 5 of the Minimum Wages Act, 1948 (XI of 1948), in its application to the State of Maharashtra, the Government of Maharashtra, after considering all the representations received by it in respect of the proposal published in the Government Notification, Industries, Energy and Labour Department, No. MWA. 1013/386/CR-179/LAB-7, dated the 22nd October 2013, and after consulting the Advisory Board, hereby revises, with effect from, the minimum rates of wages payable to the employees employed in the said scheduled employment and refixes them, as set out in column (3) of the Schedule appended

hereto, as the minimum rates of wages payable to the class of employees mentioned against them in column (2) of the said Schedule.

Schedule

Sr. No.	Class of Employees		Minimum rates of wages (Basic rate) (per month in rupees)		
			Zone-I	Zone-II	Zone-III
(1)	(2)			(3)	
1	Skilled	...	9,500	7,900	6,350
2	Semi-skilled	...	8,550	6,950	5,400
3	Un-skilled	...	7,600	6,000	4,450

Explanation.—For the purposes of this notification,—

(a) *Zone-I.*—It shall comprise of the areas falling within the limits of all “A”, “B”, “C” and “D” class Municipal Corporations, as so declared by the Government of Maharashtra *vide* Government Resolution, Urban Development Department, No. Sankirna. 1005/vargikaran/C.R. 379/05/Navi-24, dated the 4th May 2006, cantonment areas and Industrial areas within 20 Kilometers radius from all the Municipal Corporation limit ;

(b) *Zone-II.*—It shall comprise of the areas falling within the limits of all “A” and “B” Grade Municipal Councils ;

(c) *Zone-III.*—It shall comprise of all other areas in the State which are not included in Zone I and Zone II ;

(d) the minimum rates of daily wages payable to an employee employed on daily wages shall be computed by dividing the minimum rates of monthly wages fixed for the class of employees to which he belongs by twenty six, the quotient being stepped upto the nearest *paisa* ;

(e) the minimum rates of hourly wages payable to part-time employee shall be computed by dividing the daily rates of minimum wages applicable to the concerned class of employees by eight hours with 15% rise in it and quotient being stepped upto the nearest *paisa* ;

(f) the minimum rates of wages shall be inclusive of payment of remuneration in respect of weekly day of rest ;

(g) the minimum rates of wages shall consist of basic rates, the cost of living allowance, the cash value of concessions, if any ;

(h) a skilled employee is one who is capable of working efficiently, of exercising considerable independent judgement and discharging his duties responsibly ;

(i) a semi-skilled employee is one, who does work generally of a well defined routine nature, wherein the major requirement is not so much of the judgement, skills and dexterity, but of proper discharge of duties assigned to him for a relatively narrow job and important decisions are made by others. His work is thus limited to the performance of routine operation of limited scope ;

(j) an un-skilled employee is one who does operations that involve the performance of simple duties which require exercise of little or no independent judgement or previous experience, although a familiarity with the occupational environment is necessary. His work may thus require, in addition to physical exertion, familiarity with a variety of articles or goods.

APPENDIX

The average consumer Price Index Number in respect of ten centres in the State of Maharashtra for working class (New Series 2001 = 100) shall be the Cost of Living Index Number applicable to the employees employed in the said scheduled employment. The Competent Authority appointed by the Government shall, after the expiry of every six months commencing on the first day of January and the first day of July, calculate the average of the Cost of Living Index Number applicable to the said employee for these six months and ascertain the rise of such average over 230 points. For such rise of every point, special allowance (hereinafter referred to as “ the Cost of Living Allowance ”) payable to the employee in the said scheduled employment for each of the six months immediately following six months in respect of which such average has been calculated at the rate of Rs. 17.00 per month in respect of all the zones.

2. The Cost of Living Allowance computed as aforesaid shall be declared by the Competent Authority by notification in the *Official Gazette* in the last week of July when such allowance is payable for each of the months from July to December and in the last week of January when such allowance is payable for each of the months from January to June :

Provided that, the Competent Authority shall declare the Cost of Living Allowance payable in respect of the period from the date of fixation of the rate of minimum wages to the end of December or June, as the case may be, immediately after the said date with effect from which the minimum rates of wages are fixed.

By order and in the name of the Governor of Maharashtra,

J. A. KHAVNEKAR,
Under Secretary to Government.

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 मंगळवार, ऑक्टोबर २२, २०१३/आश्विन ३०, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरू चौक, मंत्रालय,
मुंबई ४०० ०३२, दिनांक २२ ऑक्टोबर २०१३.

अधिसूचना

महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८.

क्रमांक एमएसए. ०९/२०१३/प्र.क्र. ३०५/कामगार-१०.—महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८ (१९४८ चा मुंबई एकोणऐंशी) (यात यापुढे ज्याचा “ उक्त अधिनियम ” असा उल्लेख करण्यात आलेला आहे.) याच्या कलम ४ च्या परंतुकाद्वारे प्रदान करण्यात आलेल्या अधिकारांचा वापर करून, महाराष्ट्र शासन याद्वारे, उक्त अधिनियमाच्या अनुसूची दोन मध्ये खालीलप्रमाणे सुधारणा करीत आहे :—

उक्त अधिनियमाच्या अनुसूची दोन मधील क्रमांक “ ६२९ ” नंतर खालील नोंदीचा समावेश करण्यात येईल :—

“ ६२९ मे. स्टेरनॉन, ५०१, सागर फॉर्च्युन,
वॉटरफिल्ड रोड, बांद्रा (प.),
मुंबई ४०० ०५०.

उक्त अधिनियमाच्या कलम १३, १८ व कलम ३३(३) मधून खालील शर्तीच्या अधीन राहून :—

- (१) सदर सूट ही **शासन राजपत्रात** अधिसूचना प्रसिद्ध झाल्याच्या दिनांकापासून १ वर्षाच्या कालावधीकरिता लागू राहील.
- (२) प्रत्येक कर्मचाऱ्यास त्याच्या वेतनातून कुठल्याही प्रकारची कपात न करता आठवड्यातून एक दिवस आळीपाळीने भरपगारी सुट्टी देण्यात यावी व सुट्टीसंबंधीचे प्रत्येक महिन्याचे वेळापत्रक सूचना फलकावर आगाऊ लावण्यात यावे.
- (३) कर्मचाऱ्यास दररोज ९ तास किंवा आठवड्यामध्ये ४८ तासांपेक्षा जास्त काम करणे आवश्यक असणार नाही व दररोजच्या कामाची व्याप्ती ११ तासांपेक्षा जास्त असणार नाही.
- (४) प्रत्येक कर्मचाऱ्यास सलग पाच तास काम केल्यावर एक तासाची विश्रांती देण्यात यावी.
- (५) कोणत्याही कर्मचाऱ्यास त्याच्या अतिकालिक कामाबद्दल कलम ६३ मध्ये विहित केलेल्या दराने अधिक वेतन देण्यात यावे.

- (६) महिला कर्मचाऱ्यांसाठी स्वतंत्र लॉकर, सुरक्षा व विश्रांतीगृह यांची व्यवस्था करण्यात यावी.
 - (७) कर्मचाऱ्यांना राष्ट्रीय व सणाच्या सुट्ट्या देण्यात याव्यात.
 - (८) महिला कर्मचाऱ्यांसाठी रात्री त्यांच्या कामाची वेळ संपल्यानंतर आस्थापनेपासून निवासस्थानापर्यंत सुरक्षारक्षकासह मोफत वाहतुकीची व्यवस्था करण्यात यावी.
 - (९) प्रत्येक कर्मचाऱ्यास आस्थापनेकडून कलम २५ नुसार ओळखपत्र देण्यात यावे.
 - (१०) आस्थापना बंद करण्याच्या वेळेतून सूट देण्यात येत असल्याने वाढीव कामासाठी नवीन कर्मचारी नियुक्त केले जावेत.
 - (११) आठवड्याच्या व इतर सुट्टीच्या दिवशी संमतीपत्र दिलेल्या कर्मचाऱ्यांना कामावर ठेवण्यात यावे.
 - (१२) सदरहू सूट ही मुंबई दुकाने व आस्थापना अधिनियम, १९४८ पुरतीच मर्यादित आहे.
 - (१३) वरील अटी व शर्ती व्यतिरिक्त अधिनियमातील इतर तरतुदी आस्थापनेस यथास्थिती लागू राहतील.
 - (१४) वरीलपैकी कोणत्याही अटीचा व शर्तीचा भंग झाल्यास सूट आपोआप रद्द होईल. ”
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महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

अ. म. बाविस्कर,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. MSA. 09/2013/C.R. 305/Lab-10, dated the 22nd October 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

BALASAHEB KOLASE,
Joint Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 22nd October 2013.

NOTIFICATION

MAHARASHTRA SHOPS AND ESTABLISHMENT ACT, 1948.

No. MSA. 09/2013/C.R. 305/Lab-10.—In exercise of the powers conferred by the proviso to Section 4 of the Maharashtra Shops and Establishment Act, 1948 (Bom. LXXIX of 1948) hereinafter referred to as the said Act, the Government of Maharashtra hereby amends Schedule II of the said Act as follows, namely :—

In Schedule II of the said Act, after entry “629” the following entry shall be added, namely :—

- | | |
|---|---|
| <p>“ 630 M/s. Sternon, 501, Sagar
Fortune, Waterfield Road,
Bandra (W.),
Mumbai 400 050.</p> | <p>Section 13, 18 and 33(3) subject to the following conditions :—</p> <ol style="list-style-type: none"> (1) This exemption shall remain in operation for the period of one year from the date of Notification published in <i>Government Gazette</i>. (2) Every employee shall be given one day holiday in a week without making any deductions from his/her wages on account thereof and list of the time table of such holidays for a month shall be placed on the notice board in advance. (3) No employee shall be required to work for more than 9 hours in a day or 48 hours in a week. The spread over of an employee shall not exceed 11 hours in a day. (4) Every employee shall be given a rest period of one hour after 5 hours of continuous work. (5) The employees shall be entitled to overtime wages in accordance with Section 63 of the said Act. (6) Female employees shall be provided separate lockers, and rest rooms at the work place. (7) Employees shall be given national and festival holidays with wages. |
|---|---|

- (8) The female employees shall be provided escorted transport facility from establishment to resident after their completion of work at night.
 - (9) Every employee shall be provided Identity Card, according to the Section 25.
 - (10) As the exemption is given from the closing time, new employee shall be recruited for extended work.
 - (11) The employees, who have given their consent be only placed on the day of weekly holiday or other holiday.
 - (12) This exemption is related only to Bombay Shops and Establishment Act, 1948.
 - (13) In spite of these terms and conditions, all the provisions of this Act shall be applicable to the establishment duly.
 - (14) In case of violation of any of the above terms and conditions, the exemption shall stand cancelled automatically.”
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By order and in the name of the Governor of Maharashtra,

A. M. BAWISKAR,
Section Officer.

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 मंगळवार, ऑक्टोबर २२, २०१३/आश्विन ३०, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय, मुंबई ४०० ०३२,
दिनांक २२ ऑक्टोबर २०१३.

अधिसूचना

महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८.

क्रमांक एमएसए.१०/२०१३/प्र.क्र. ३४७/कामगार-१०.—महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८ (१९४८ चा मुंबई एकोणऐंशी), (यात यापुढे ज्याचा “ उक्त अधिनियम ” असा उल्लेख करण्यात आलेला आहे.) च्या कलम ६ अन्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करून व कामगार आयुक्त यांनी निर्गमित केलेल्या क्रमांक दुकाने/मुंदवआ/निलंबन/२०१३/कार्यासन-१३, दिनांक १७ नोव्हेंबर २०१२ च्या अधिसूचनेतील मुद्दा क्रमांक १५ अधिक्रमित करून, महाराष्ट्र शासन याद्वारे, उक्त अधिनियमाच्या कलम १०(१), ११(१)(अ), १६, १९(१) व २३ खालील तरतुदी राज्यात दिवाळी या सणाच्या कालावधीत दिनांक २८ ऑक्टोबर २०१३ ते ७ नोव्हेंबर २०१३ या कालावधीकरीता खालील अटी व शर्तीच्या अधीन राहून स्थगित करीत आहे :—

- (१) उक्त अधिनियमातील कलम १०(१), ११(१)(अ), १६ १९(१) व २३ या कलमांखालील तरतुदी या दिनांक २८ ऑक्टोबर २०१३ ते दिनांक ७ नोव्हेंबर २०१३ (दोन्ही दिवस धरून) या कालावधीसाठी स्थगित राहतील.
- (२) कोणत्याही कामगारास उक्त अधिनियमाच्या कलम ६३ मध्ये विहित केलेल्या कामाच्या तासांपेक्षा अधिक वेळ काम करणे भाग पडल्यास,—
 - (अ) त्याची विहित नोंदवहीमध्ये नोंद घेण्यात यावी ; आणि
 - (ब) अतिकालिक कामाबद्दलचा मोबदला उक्त अधिनियमाच्या कलम ६३ मध्ये निश्चित केलेल्या दरापेक्षा कमी नसावा.
- (३) दुकाने, रेस्टॉरंट, खाद्यगृहे आणि निवासी हॉटेल्समधील कामाचे तास कोणत्याही दिवशी १४ तासांपेक्षा अधिक असणार नाहीत.
- (४) विहित साप्ताहिक सुट्ट्यांचा लाभ न मिळाल्यास,—
 - (अ) प्रत्येक कामगारास त्याबद्दल्यात वर नमूद स्थगित कालावधी संपल्यानंतर तीन महिन्यांच्या आत तेवढ्याच बदली रजा देण्यात येतील ; आणि
 - (ब) प्रत्येक कामगारास उक्त अधिनियमाच्या कलम ६३ मध्ये विहित केलेल्या दरापेक्षा कमी नसेल अशा दराने सुट्ट्यांच्या दिवशी केलेल्या कामाबद्दल अतिकालिक वेतन देण्यात येईल.

- (५) दुकाने, रेस्टॉरंट, खाद्यगृहे आणि निवासी हॉटेल यांना दिवसातील कोणतेही १४ तास त्यांची आस्थापना उघडी ठेवण्याचे स्वातंत्र्य असेल.
- (६) कोणत्याही महिला कामगारास रात्री ९-३० वा. नंतर काम करण्यास फर्मावण्यात येणार नाही.
- (७) उक्त अधिनियमाच्या कलम २(३३) मध्ये विहित केलेल्या कोणत्याही अल्पवयीन व्यक्तीस सायंकाळी ७-०० वा. नंतर काम करण्यास फर्मावण्यात येणार नाही.
- (८) प्रत्येक कामगारास सलग ५ तास काम केल्यानंतर १ तासाची विश्रांती देण्यात येईल.
- (९) वरील अटी व शर्तीव्यतिरिक्त अधिनियमातील इतर तरतुदी यथास्थिती लागू राहतील.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

अ. म. बाविस्कर,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. BSE. 10/2013/C.R. 347/Lab-10, dated the 22nd October 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,
BALASAHEB KOLASE,
Joint Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Kama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 22nd October 2013.

NOTIFICATION

MAHARASHTRA SHOPS AND ESTABLISHMENT ACT, 1948.

No. MSA. 10/2013/CR 347/Lab-10.—In exercise of the powers conferred by section 6 of the Maharashtra Shops and Establishment Act, 1948 (Bom. LXXIX of 1948), hereinafter referred to as the said Act, and in suppression of point No. 15 of the notification issued by Commissioner of Labour. *vide* No. Shops/BSAE/Suspend/ 2013/Karyasan-13, dated 17th November 2012, the Government of Maharashtra hereby Suspends the operation of provisions of Section 10(1), 11(1)(a), 16, 19(1) and 23 of the said Act for the State of Maharashtra on account of the festivals, *i.e.* Diwali for period from 28th October 2013 to 7th November 2013 subject to the following terms and conditions :—

- (1) The suspension of provisions of Sections 10(1), 11(1)(a), 16, 19(1) and 23 of the said Act shall remain in operation for the period from 28th October 2013 to 7th November 2013 (including both days).
- (2) If any employee is made to work more than the usual working hours as specified in Section 63 of the said Act,—
 - (a) It must be noted in prescribed register ; and
 - (b) rates of wages for overtime work shall not be less than the rates fixed under Section 63 of the said Act.
- (3) Working hours of the shops, restaurants, eating houses and residential hotels on any day should not exceed 14 hours.
- (4) If benefit of weekly holiday is not available,—
 - (a) Compensatory holiday shall be given within 3 months from the end of above festival day ; and
 - (b) Overtime for the working done on a holiday shall be paid as per the rates fixed under Section 63 of the said Act.
- (5) Shops, restaurants, eating houses and residential hotels shall be free to remain open for any 14 hours of the day.
- (6) No woman shall be required or allowed to work after 9-30 P.M.
- (7) No young person as defined in Section 2(33) of the said Act shall be required or allowed to work after 7-00 P.M.
- (8) Every employee should be given a rest period of 1 hour after 5 hours of continuous work.
- (9) Other than these terms and conditions, all the provisions of this Act shall applicable to the establishment.

By order and in the name of the Governor of Maharashtra,

A. M. BAWISKAR,
Section Officer.